

Good morning. My name is Marilyn Crawford and I represent Bedford Mining Alert (BMA).

BMA is a group composed primarily of property owners in the district of Bedford, South Frontenac Township, in eastern Ontario, just north of Kingston. Our focus is on the manner in which prospecting, exploration and mining activities occur, with particular concern over the adverse impact they have on the environment which supports local tourism, and recreational and cottaging activities. These are the life blood of our region. BMA's efforts are supported by many other groups, including Rideau Valley Conservation Authority, Greater Bobs and Crow Lake Cottagers Association, Land O'Lakes Tourist Association, Friends of the Tay Watershed; Sunset Shores Peninsula Association; Knowlton Lakes Cottagers Association, Wolf Lake Association, Frontenac Environmental Partnership and Algonquin to Adirondack Conservation Association.

We are attending this roundtable to bring forward problems we have encountered with relying on a voluntary approach and with regulatory bodies being "captured" by the entity they are supposed to regulate, with the result that laws and rules that do exist, are not enforced. It is clear to us that voluntary practices continue to be insufficient in Ontario. We would suspect, given our experience, that problems would be compounded with Canadian companies that are not regulated domestically and operate in developing countries.

It is our understanding that Canadian extractive companies have been implicated in human rights abuses and environmental disasters in over 30 countries. It is no surprise that some Canadian mining companies' international behaviour is regarded as being bad, given they may just be perpetuating practices accepted at home. Although regulations are in place in Ontario, the legislation is out of date and reflects a colonial period in Canada's history and the view that Canada was an asset to be exploited by the British Crown. When regulations were not in place, it resulted in abandonment of mines without reclamation. Even with improved regulations in place, problems continue due to inadequate financial guarantees and lack of regulatory oversight.

The Mining Act of Ontario supports and encourages exploration activities that are intrusive and damaging.

Prospectors are not required to be trained or certified, to belong to an association or to carry insurance. The Mining Act gives the right to enter, occupy and use land where the surface rights are privately owned. Without regulations, claim holders are not bound to sign on or practice industry best practices. Consultation and reclamation of exploration sites does not occur. Liability is foisted on to landowners who have no control over activities on their property. I have prepared details of our concerns: Appendix A

The results of laxly monitoring and enforcing regulation are found in the Ontario Auditor General's 2005 Report on Mines and Mineral Development. It confirms that, "...the Ministry did not have adequate procedures in place to ensure compliance with legislation and its internal policies..."

The report confirms that the Ministry does not adequately monitor the mining industry and leaves Ontario taxpayers paying for the long-term financial and environmental impacts of mining. The Auditor's findings show that, not only is Ontario doing little to clean up these sites, it is doing almost nothing to prevent more being created. The report finds that prosecutions and penalties for

falsifying reports were inadequate to act as a deterrent to companies operating in Ontario. (I have prepared Auditor General's report notes Appendix B)

With the rise of multi-nationals, and recent takeovers, to characterize any mining company as Canadian or from somewhere else, is getting increasingly difficult. A series of corporate entities, both domestic and foreign, are often used. This makes the ability to enforce any damage awards or address the failure to comply with the law, difficult if not impossible. If we are not careful, multinationals will become un-regulatable. Today, to the extent major Canadian multinational mining companies are operating in Canada, some are trying to clean up their act domestically but the historic legacy is not good. It is through monitoring and enforcement of modern regulations that any improvements have been made, not through voluntary compliance. The industry must be forced to clean up the behaviour of its bad actors, and not be permitted to hide behind corporate shells.

Recommendations:

1. If you want to do business in Canada or are registered as a Canadian company, you must be a socially responsible business in all activities by all members of your group. Business is broadly defined to be not only being in the extractive business in Canada but accessing the Canadian consumer for the sale of a product, the Canadian capital markets for money, or any other aspect of Canada (eg. CIDA loans/grants).
2. If companies want to do business in Canada, they need to have proven responsibility and accountability for the way they do business. Companies doing business in Canada (and not just Canadian companies) must sign on to, and observe international human rights law and environmental standards. Companies operating outside of international laws and environmental standards must result in meaningful consequences and penalties in order to continue operations or to initiate new ones. This would include not just withdrawing both political assistance and financial support to Canadian extractive companies that do not operate in a socially and responsible way abroad, but imposing additional costs through penalties or surtaxes applied against their Canadian assets and used to fund Canadian foreign environmental aid.
3. Canada needs independent monitoring, verification systems, complain tools and enforcement mechanisms to guarantee compliance. After regulations are in place, one solution would be to have funding requirements in place which ensure compliance through up front bonding/indemnity funds for cleaning up any possible damages and restoring disturbed land. Given the international scope of the companies, international cooperation to ensure the enforcement of financial requirements would be desirable.
4. Generally there is a local mine operator which is a separate corporation, possibly with separate shareholders, from the multinational, even though the structure of the operating agreement ensures that most of the profits flow to the multinational. A requirement should be imposed on multinationals wanting to do business so that they assume responsibility for problems they may cause anywhere in the world, either directly or through corporate chains or through co-venturers.

Path forward

Where once it was only shareholders who needed to be looked after, now the rest of the

population demands accountability for the products they consume and benefit financially. Mineral extractive companies need to serve a public purpose. Government needs to hold companies accountable to that purpose. It is clear to us that relying on voluntary measures has and will harm the reputation of the mining industry, even those who are adopting and operating with standards of CSR at home and abroad. Relying on voluntary compliance puts the environment and communities at risk. We are concerned that relying on voluntary measures abroad could 1) result in the erosion of regulations that are in place in Canada and 2) compromise the competitiveness of mining in Canada.

Canada needs to be a leader and set an example for other nations. BMA supports the report by the Parliamentary Standing Committee, tabled in June 2005 recommending that the Government adopt policy and legal changes to hold Canadian companies (broadly defined to include any company doing business in Canada) accountable and ensure that companies conduct their activities in a socially and environmentally responsible manner and in conformity with international human rights standards.

Thank you.

Presented at the National Roundtables on Corporate Social Responsibility
Toronto, Sept. 13, 2006