

## Escape Clause

### ***Why is an ecologically destructive industry like mining exempt from environmental assessments?***

*By Jen Baker, Boreal Campaign Coordinator*

In 2009, if all goes according to plan, Ontario will have the dubious distinction of being an exporter of diamonds for the first time in the province's history. The environmental impacts that will result from the approved DeBeers Canada Victor diamond mine, located near Attawapiskat in the James Bay Lowlands, range from habitat destruction to air and water pollution to altered waterways. The mine will affect 5,000 hectares of wilderness and will create a 2,575-square-kilometre "cone of depression" – an area one-third the size of the Greater Toronto Area – caused when water is pumped out of the ground and the soil there caves in. Remarkably, Ontario does not require such an enormous project to be fully examined through a comprehensive environmental assessment. No federal or provincial body ever undertook a complete review of all aspects of the Victor mine and their potential environmental impacts, despite repeated requests from conservation groups and scientific experts to do so.

The DeBeers Canada Victor diamond mine is symptomatic of a much bigger problem. More than 41,000 mining claims have been staked throughout the province. Both federal and provincial levels of government should conduct environmental assessments (EAs) on all mining proposals. The federal EA process is triggered if a mining project or any parts of it will require federal permits, federal funding, federal land or authorization under a variety of federal laws, most notably the Fisheries Act and the Navigable Waters Protection Act. As a general rule, however, federal departments review only those aspects of a proposal that require a specific permit (for example, bridge construction) and not the entire project. The federal government assumes that the province in which the mine is proposed reviews the potential impacts of the mine itself.

In Ontario, though, a provincial EA of mines rarely takes place because of a little-known and poorly understood exemption called Declaration Order MNDM-3/3. This declaration order, in place since 2003, exempts from the provincial EA process the granting (or renewal) of mining approvals on Crown land.

On June 30, 2006, Ontario Minister of the Environment Laurel Broten approved a further three-year extension of this exemption even though the process involved in exploring and extracting metals and minerals from the ground results in an environmentally destructive footprint that far outlasts the length of time a mining project is in operation.

Yet mining proposals undergo uncoordinated and piecemeal environmental assessments that are overseen by independent and unrelated government departments, none of which is responsible for reviewing the full array of potentially destructive impacts a mine might have. The Victor diamond mine was given permission to pump 100,000 cubic metres of water out of the Attawapiskat River each day and has sought approval to construct roads, build a new electricity transmission corridor, divert a river and create a barge landing in James Bay. Various provincial agencies assessed each of these elements separately. This piecemeal approach also means that components of the mine that could have significant adverse environmental impacts may proceed before even the limited environmental assessment process is complete.

Ontario Nature is calling on the provincial government to close this loophole. We support the request by a coalition of conservation organizations, including CPAWS Wildlands League, MiningWatch Canada and Sierra Legal, that the Ministers of the Environment, Natural Resources and Northern Development and Mines undertake a review of the need for a thorough assessment

of the environmental impacts of proposed mining projects under the Mining Act and the Environmental Assessment Act.

Any future environmental assessments must take into account the ecological footprint of the entire mining project (from staking to reclamation/remediation) before granting any approvals. While the existing policies are being reviewed and reformed, all approvals of mining projects (including staking and exploration) in northern Ontario should be halted until comprehensive land-use planning legislation is enacted and an appropriate and comprehensive environmental assessment regime is implemented.