

Standing Committee on
Economic Development
and Environment



Report on Bill 29:

Resource Royalty Information
Disclosure Statute
Amendment Act

19th Northwest Territories Legislative Assembly

Chair: Mr. Jackie Jacobson

**MEMBERS OF THE STANDING COMMITTEE ON
ECONOMIC DEVELOPMENT AND ENVIRONMENT**

Jackie Jacobson
MLA Nunakput
Chair

Ron Bonnetrouge
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Deputy Chair

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Katrina Nokleby
MLA Great Slave

Kevin O'Reilly
MLA Frame Lake

Alternates

Caitlin Cleveland
MLA Kam Lake

Lesa Semmler
MLA Inuvik Twin Lakes

November 23, 2021

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Economic Development and Environment is pleased to provide its *Report on Bill 29: Resource Royalty Information Disclosure Statute Amendment Act* and commends it to the House.



Mr. Jackie Jacobson
Chair, Standing Committee on
Economic Development and Environment

**STANDING COMMITTEE ON
ECONOMIC DEVELOPMENT AND ENVIRONMENT**

**REPORT ON BILL 29: RESOURCE ROYALTY INFORMATION
DISCLOSURE STATUTE AMENDMENT ACT**

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STANDING COMMITTEE ON ECONOMIC DEVELOPMENT AND ENVIRONMENT**REPORT ON BILL 29: RESOURCE ROYALTY INFORMATION DISCLOSURE STATUTE AMENDMENT ACT****INTRODUCTION**

[Bill 29: Resource Royalty Information Disclosure Statute Amendment Act](#) is a Private Member's Bill, introduced by MLA O'Reilly. Bill 29 received second reading on June 1, 2021 and was referred to Standing Committee on Economic Development and Environment for review.

Bill 29 proposes to amend three pieces of legislation: the *Mineral Resources Act* (not yet in force); the *Northwest Territories Lands Act*; and the *Petroleum Resources Act*. The amendments would allow the Minister to disclose information of a confidential nature received for use in the development and evaluation of policy (such as Royalty payments) to Members of the Legislative Assembly and Indigenous Governments, subject to restrictions on further disclosure.

PUBLIC ENGAGEMENT

Committee sought feedback from Indigenous governments, companies currently paying royalties, and the NWT and NU Chamber of Mines.

Stakeholder comments were received from:

- Tłıchǫ Government,
- Sahtu Secretariat Incorporated,
- NWT and NU Chamber of Mines with the Mining Association of Canada
- Arctic Canadian Diamond Company
- The Explorers and Producers Association of Canada
- Alternatives North

Stakeholder submissions (Appendix A) were polarized between strong opposition overall with the Bill versus support for the Bill including suggestions to strengthen clauses.

Industry was not supportive of the Bill.

The Bill was viewed as creating uncertainty in an already poor investment climate, and duplicative or unaligned to other jurisdictions.

There was concern with sharing confidential tax information beyond staff with financial and tax expertise. Sensitive business financial information would be shared with staff that may not have the responsibility or the expertise to protect sensitive financial data.

Confidentiality provisions were viewed to protect industry investment, and the sharing of information more broadly increased concerns regarding the likelihood in a breach of confidentiality.

The scope of information to be shared was viewed as unclear and not necessarily supported by all parties. The Bill was not viewed to support the Mandate of the Government of the Northwest Territories (GNWT) and premature to the GNWT concluding its review of the Mining Fiscal Regime Review.

The Tłı chų Government, Sahtu Secretariat Inc. and Alternatives North supported the intent of the Bill.

The Tłı chų Government suggested clarifying the purpose, scope and implementation of the Bill with provisions to ensure no information related to Indigenous governments would be shared.

Both the Sahtu Secretariat Inc. and Alternatives North suggested to strengthen the Bill by requiring the Minister to share information.

COMMITTEE CONCERNS

On September 15, 2021 Committee held a Public Hearing with the Sponsoring Member, Committee also invited public presentations. The [public hearing](#) was livestreamed on the Legislative Assembly channel. Presentations were provided from the NWT and Nunavut Chamber of Mines with the Mining Association of Canada, the Department of Industry, Tourism and Investment as well as the Sponsoring Member.

Members held varying positions on the Bill.

There was concern regarding the Bill duplicating the information found through the federal [Extractive Sectors Transparency Measures Act](#) (ESTMA). Under ESTMA extractive companies must publicly disclose payments made to governments in Canadas and abroad. ESTMA helps the Government of Canada deter corruption in the extractive sector.

It was recognized that royalty payments made by mining companies to the GNWT could be located here, however it was also noted the royalty payments reported through ESTMA do not match the royalty payments recorded in the GNWT's Public Accounts.

The GNWT Public Accounts report the royalty revenues from mining, oil and gas received annually as an aggregate total (i.e. it is not broken down by mine or by company). There are other additional reasons why the royalty reported in the Public Accounts do not match the royalty reported in ESTMA not limited to: differences in fiscal year reporting, and the number of operations a company may have in the NWT.

Canada supports global financial transparency efforts and aligns with Extractive Sectors Transparency Initiative (EITI) standards through the reported information made publicly available through the ESTMA. Canada was a major player to develop the global standard on mandatory extractive sector transparency payment disclosures and is a contributing board member to the initiative. Although Canada doesn't report under EITI, it is a supporter of the initiative, and requires company payments to be disclosed through the information made public under ESTMA.

There was concern that Bill 29 implicated the mining oil and gas sector to disclose confidential information without requiring other sectors that pay royalties (such as quarrying, forestry) to do the same.

It was noted that the information disclosed would be information already provided to the Minister and the Minister could decide to share the information with Members of the Legislative Assembly or Indigenous Governments. Committee recognized that even if Bill 29 was enacted, the Minister will still hold discretion whether to disclose confidential information.

There was concern among Committee with the unknown risks regarding potential breaches of confidential information made possible through Bill 29.

Following the Public Hearing Committee proceeded with the Clause-by-Clause review of the Bill.

CONCLUSION

Committee could not reach agreement on how to proceed with the Bill, and therefore recommends the Bill for consideration in Committee of the Whole.

APPENDIX A: STAKEHOLDER SUBMISSIONS

30 August 2021

Attention: Jennifer Franki-Smith, Committee Clerk

Standing Committee on Economic Development and Environment
Box 1320, 4570 – 48 Street
Yellowknife, NT X1A 2L9

By Email to Jennifer.Franki-Smith@ntassembly.ca

Dear Ms. Frank-Smith,

RE: Stakeholder Comments on Bill 29-19(2): Resource Royalty Information Disclosure Statute Amendment Act

We write to you in response to Bill 29-19(2) ("**Bill 29**"), a bill introduced by MLA Kevin O'Reilly as a Private Member's Bill.

We are Arctic Canadian Diamond Company ("**Arctic**"), Canada's largest independent producer of natural and responsibly mined diamonds, and a significant producer and supplier of premium rough diamond assortments to the global market. Arctic operates the Ekati Diamond Mine (the "**Ekati Mine**") north-east of Yellowknife, which is a large employer of Indigenous people and northern residents. Arctic Canadian is currently one of the two largest non-governmental employers in the Northwest Territories.

Arctic operates the Ekati Mine under a Socio-Economic Agreement (the "**Socio-Economic Agreement**") with the Government of the Northwest Territories which has been in place since 1996. Under the Socio-Economic Agreement, Arctic provides financial support for long-term sustainable community development projects in the Northwest Territories. These development projects incorporate traditional knowledge, discussions with communities, and on-the-land initiatives to gather direct input into environmental programs. The Socio-Economic Agreement contributes approximately five million dollars to local communities each year.

In addition, Arctic is a party to Impact Benefit Agreements ("**IBAs**") with Indigenous groups, including the Tlicho, Akaitcho, North Slave Metis Alliance, and Kitikmeot Inuit Association. These IBAs operate on a basis of mutual respect, active partnership, and long-term commitment. They provide training, employment, business development and capacity-building opportunities to our Indigenous partners.

As a mine operator in the Northwest Territories, we are a very significant contributor to the Government's revenue, by directly paying taxes and royalties, by employing residents who are subject to income tax, by paying and generating services and sales taxes, by making royalty payments and by contributing capital pursuant to regulatory obligations and infrastructure contributions. In fact, over the past five years the Ekati Mine has generated more than one hundred million dollars in direct taxes and royalties for the Government of the Northwest Territories and this includes one year when the mine was on Care & Maintenance with no revenue generated.

Arctic wishes to express its concern with respect to the proposed amendments in Bill 29. Under the *Mineral Resources Act*, the *Northwest Territories Lands Act*, and the *Petroleum Resources Act*, information related to royalty payments is generally considered confidential. As an industry stakeholder, we are concerned because broader disclosure of sensitive and proprietary business information inherently increases the risk of inadvertent or unauthorized disclosure. Arctic considers royalty payment information highly sensitive and proprietary. Unauthorized disclosure or use of sensitive and proprietary information could put Arctic at a competitive



ARCTIC CANADIAN DIAMOND COMPANY

Naturally Beautiful. Mined Right.

disadvantage, and have significant and negative repercussions for Arctic, which in turn harms Arctic's stakeholders in the North, including its employees, business partners, and First Nations partners.

We understand that Bill 29 proposes to restrict the Minister's disclosure of royalty payment information to MLAs and Indigenous Governments. However, in the context of the Northwest Territories, this is relatively broad dissemination.

We also note that detailed financial information, including royalty payment information, is already provided to the appropriate government officials. The *Extraction Sector Transparency Measures Act*, which industry stakeholders including Arctic supported, requires that mines in the Northwest Territories disclose all annual payments to the Minister of Natural Resources. That information is available to the public, and it provides a complete representation of the contributions made by industry stakeholders. The extra detail in the proposed private member's bill is therefore unnecessary, inconsistent with international norms, and not in the best interests of the NWT.

Further, the Government of the Northwest Territories is currently conducting an in-depth review of the royalty payment system. Any proposed changes to royalty payment standards should be stayed until such time that the standing committee, Members of the Legislative Assembly, and the public have reviewed the royalty payment regime and the committee's findings. Bill 29 is premature in this regard.

A proper balance must be struck so that full and complete disclosure is made to appropriate government officials, but at the same time, Northern and industry stakeholders are not exposed to undue risk. Bill 29 does not provide that balance. It does not increase industry transparency to appropriate government officials, and it creates material and unnecessary business risks for industry stakeholders.

We further suggest that Bill 29 goes against the Mandate of the 19th Assembly in which the GNWT commits to "Increase resource exploration and development" and "restore levels of investment, partnership, employment, and growth in the NWT's economy." Bill 29 will in no way help to rejuvenate the mineral development industry, which is the NWT's most important private sector industry.

In closing, Arctic submits that the current disclosure system, which requires complete disclosure to appropriate government officials and protects sensitive information, should be maintained. It is our recommendation that Bill 29 should not be passed. We ask that the Legislative Assembly continue to recognize the balance which has been achieved by current legislation, which authorizes an appropriate level of disclosure but limits stakeholder exposure to risk.

Please do not hesitate to contact me should you have any further questions or comments.

Yours truly,
Arctic Canadian Diamond Company Ltd.

Rory O. Moore
Interim President

cc. Hon. Caroline Wawzonek, NWT Minister of Finance, and NWT Minister of Industry, Tourism & Investment

MLA Jackie Jacobson, Chair of the Standing Committee on Economic Development and Environment



Alternatives North

Mr. Jackie Jacobson, MLA Nunakput
Chair, Standing Committee on Economic Development and the Environment
Legislative Assembly of the NWT
Box 1320
Yellowknife NT X1A 2L9

September 13, 2021

via e-mail to:
Jennifer Franki-Smith
Committee Clerk, Northwest Territories Legislative Assembly
Jennifer.Franki-Smith@ntassembly.ca

RE: **Bill 29: Resource Royalty Information Disclosure Statute Amendment Act**

Please consider this to be a written submission to the Standing Committee on Economic Development and the Environment public hearing regarding private member's Bill 29 concerning Resource Royalty Information.

Alternatives North has followed mineral resource development in the NWT over decades. Most recently, we were involved in the development of the *Mineral Resources Act*, in input to the *Public Land Act* regulations, and in consulting with officials about the territorial royalty regime. Alternatives North is one of six parties to the Giant Mine Environmental Agreement and continues to participate in this process. We have always supported transparency in this very important NWT industry.

Therefore, we support this Bill, while offering suggestions to strengthen it.

Disclosure of royalty information is essential to a full understanding and analysis of the mining sector of the NWT economy. Given the current international push towards greater transparency, and the Government of the NWT's priority "to adopt a benefit retention approach to economic development", detailed royalty information should be broadly available. Royalty information is necessary to determine mineral development decisions and regulation.

It is near risible that the royalty regime in the NWT is akin to a state secret whereas in Yukon information like the royalty on placer gold is a matter of public information. Google "Yukon royalty on placer gold" for example.

Hence, we are baffled that disclosure of such information would not be available to Indigenous governments and all MLAs. We realize that a more comprehensive engagement with the public and consultation process with Indigenous Governments is normally undertaken prior to amending legislation. As this Bill enables sharing of information, and

Alternatives North, c/o P.O. Box 444, Yellowknife, NT X1A 2N3 info@alternativenorth.ca

does not impinge upon any Indigenous rights (indeed, it seems to be fixing a gap in the existing legislation), we consider the present engagement portion of the process to be fully adequate. Information sharing is a key underpinning of consensus government.

Disclosure of information about the mining fiscal regime is required to allow rigorous and comprehensive financial analysis and modeling of scenarios of royalty options. Accordingly, we suggest the following to strengthen the Bill:

the Minister **shall** [rather than may] disclose information of a confidential nature for use in the development and evaluation of policy for the Government of the Northwest Territories **when requested by** a member of the Legislative Assembly or to an Indigenous government, subject to such restrictions on further disclosure as may be specified in either case by the Minister.

This change to mandatory upon request, rather than discretionary, makes it much clearer that the expectation is for sharing and disclosure.

This could be further strengthened by

the Minister **shall** disclose information of a confidential nature for use in the development and evaluation of policy for the Government of the Northwest Territories to **all members** of the Legislative Assembly **and as requested** to an Indigenous government, subject to such restrictions on further disclosure as may be specified in either case by the Minister.

Such language further strengthens the expectation of sharing and disclosure, especially in a government that champions consensus.

This Bill does not address the broader issue of public disclosure of such information. We expect that as the royalties' review continues and regulations under the *Mineral Resources Act* are developed, greater public disclosure will be addressed.

Yours sincerely,

Alternatives North



Karen Hamre

CC: Kevin_OReilly@ntassembly.ca



August 30, 2021

Att: Jennifer Franki-Smith
Committee Clerk
Standing Committee on Economic Development and Environment
NWT Legislative Assembly
By Email to: Jennifer_Franki-Smith@ntassembly.ca

Dear Ms. Franki-Smith,

Please find attached a minerals industry submission from the NWT & Nunavut Chamber of Mines and The Mining Association of Canada on Private Member's Bill 29, the Resource Royalty Information Disclosure Statute Amendment Act.

Yours truly,

Ken Armstrong
President
NWT & Nunavut Chamber of Mines

Pierre Gratton
President and CEO
The Mining Association of Canada

Attachment: *Minerals Industry Submission on Private Member's Bill 29, the Resource Royalty Information Disclosure Statute Amendment Act*

c.c.: Hon. Caroline Wawzonek, NWT Minister of Finance, and NWT Minister of Industry, Tourism & Investment
MLA Jackie Jacobson, Chair of the Standing Committee on Economic Development and Environment

NWT & Nunavut Chamber of Mines: #4, 5120 – 49th Street, Yellowknife, NT X1A 1P8 | T: (867) 873-5281
Email: executivedirector@miningnorth.com | Website: www.miningnorth.com

The Mining Association of Canada: 275 Slater Street, Suite 1100, Ottawa, ON K1P 5H9 | T: 613.233.9392 ext. 316
Email: bchalmers@mining.ca | Website: www.mining.ca



Minerals Industry Submission on Private Member's Bill 29, the Resource Royalty Information Disclosure Statute Amendment Act

Introduction

The public, along with the minerals industry, have been invited to provide thoughts on Private Member's Bill 29: Resource Royalty Information Disclosure Statute Amendment Act.

The bill proposes to make changes to three pieces of legislation that could have far reaching negative effects on the NWT's mineral investment competitiveness.

The Chamber has been asked by its members to submit a collective position on the Bill.

To that end, our industry members find that the Bill is:

1. Duplicative of other legislation
2. Proposes unusual sharing of confidential tax information beyond government staff who have the responsibility and the systems to protect business sensitive financial information.
3. Disconcertingly, this confidential and sensitive information would also be available to business competitors.
4. Is being proposed before the GNWT has completed its study on resource royalties and the tax system.
5. Does not support the 19th Assembly's Mandate to "Increase resource exploration and development" and "restore levels of investment, partnership, employment, and growth in the NWT's economy."

Details follow.

Duplicative of ESTMA Legislation

- Under current legislation, the Extractive Sector Transparency Management Act (ESTMA), individual mines report what they pay to governments in various taxes – including royalties – which are then posted publicly. The ESTMA legislation was advanced and supported by the Canadian mining industry, working together with two NGOs, to become law.
- The Canadian ESTMA is fully consistent with other international financial payment reporting schemes in the United Kingdom and Europe, and these jurisdictions mutually recognize each other's legislation as equivalent. This equivalency recognition allows for a company to report government payments only once and have that report address reporting requirements in multiple jurisdictions, minimizing reporting burden and duplication.
- ESTMA is fundamentally an anti-corruption tool to determine whether payments made by industry to government match with government reporting of payments received. While not an issue in Canada, these anti-corruption mechanisms have high relevance in other parts of the world where governance is weak and corruption is high. Quebec is the only other Canadian jurisdiction with similar legislation and it, too, recognizes legislation in other jurisdictions as equivalent.

- The extra detail in the proposed private member's bill is therefore unnecessary, inconsistent with international norms, and proposes many sensitive competitiveness issues for industry and government that are not in the NWT's interest.
- It is our belief that the disclosures under ESTMA are sufficient to provide the public with an appreciation for the royalties paid, without exposing commercially sensitive aspects of each individual business to competitors or the general public.

Unusual and inappropriate sharing of sensitive tax information

- Mineral resource royalties are essentially a profits tax. They are calculated through a legislated formula that considers various factors that could affect profits positively or negatively, and differentially for one mine compared to another.
- These include sensitive confidential information such as market price, but in the case of diamonds, also the efficiency of an individual company's customer supply chains to maximize their own market price. It also considers business losses, capital investments, fuel costs, depreciation and amortization, and the various other taxes that companies must also pay.
- In the NWT, ice road costs, the costs of self-generating power, and property taxes, and other costs associated with our acute infrastructure deficit are also some of the unique additional costs incurred by mine operators that are taken into consideration.
- Current NWT legislation recognizes and respects the need to protect such potentially sensitive business information, eg:
 - o Under the current [Northwest Territories Mining Regulations](#)
 - o And under the upcoming Mineral Resources Act, through the [Access to Information and Protection of Privacy Act](#).
- Under current privacy laws, this detailed financial information is limited to the government staff responsible to use it for detailed tax calculations, and who are obligated to safeguard it.
- The current legislation is designed to protect the public interest, by requiring companies to follow the law in reporting to government the detailed information required for royalty calculation purposes.
- If enacted, this Bill would unusually allow the release of tax information and sharing of other sensitive information beyond government staff who have the authority and responsibility to audit and assess company confidential information with politicians and Indigenous governments without this responsibility. We say "unusually" as this is not the norm in other jurisdictions in Canada.
- This broadening of the distribution of the information to a much larger group of people also substantially increases the likelihood of a breach in confidentiality requirements. As the number of people who have the information increases, the level of confidentiality applied to the information concomitantly decreases.
- The type of disclosure proposed under Bill 29 could pose harm to the commercial side of the mineral resource business for companies that mine – or may be considering it – in the NWT.
- Government regularly protects all business and industries with confidentiality of their financial information for tax reporting calculations. Bill 29 is unusually intrusive in proposing that detailed, sensitive information be shared more broadly. It begs the question, would government then ask other mining and related businesses to reveal confidential information related to their profitability?
- Similarly, our personal tax filings are not available to politicians.
- We see no added value, and in fact added risk, in sharing business detail beyond those whose jobs and skills and responsibilities are to use this data to calculate royalties and other taxes.

- We note that the Briefing Note provided by the Standing Committee states that while Bill 29 enables the Minister to share confidential information to Members of the Legislative Assembly or Indigenous Governments, it does not require the Minister to do so. In other words, that Bill 29 simply provides the Minister the discretion to choose whether or not to share confidential information to Members of the Legislative Assembly or Indigenous Governments. However, this does not change our position on Bill 29.

Unclear intentions, but the Bill jumps the gun on GNWT royalty study

- The intentions behind Bill 29 are unclear to us. If it's to allow politicians to propose different royalty systems, we'd suggest this is not appropriate, since we understand that GNWT-ITI is currently conducting an in-depth royalty review to look into this issue. That process should be completed to help the standing committee, all MLAs, and the public understand the current system, before discussing options for others.
- We are not aware of any other Canadian jurisdictions requiring such an unusual level of sharing of detailed, and frankly, sensitive business information that Bill 29 proposes to share. The closest might be Quebec which we believe requires only partial reporting of information from rock quality to the process plant, in other words, they do not require any information on processing and sales beyond that.
- We understand that comparing and studying other royalty regimes is part of the work currently underway by GNWT-ITI, and soon to be shared with the public.
- Bill 29 is therefore premature to this work already being completed.

Would not support the 19th Assembly Mandate

- Under the 19th Assembly's Mandate, the GNWT will "Increase resource exploration and development" in order to "restore levels of investment, partnership, employment, and growth in the NWT's economy."
- This is a very appropriate mandate action given the circumstances the NWT is facing with its mineral resource industry.
- Mineral development continues to be the largest private sector contributor to the NWT's economy, annually adding hundreds of millions in business spending alone, in addition to significant employment and taxes and community contributions.
- The NWT's globally significant mineral potential should support such continued high levels of benefits.
- However, for a variety of reasons, many of which we have already shared with newly elected members of the 19th Assembly in October 2019, the investment attractiveness of the NWT continues to decline. Over the last two years, we have seen mineral production take a significant drop of \$900 million, and exploration investment continues to flat line at low levels. What projects we have in the development pipeline are still in the advanced exploration to feasibility stage, and are much smaller than the maturing diamond mines we expect them to replace.
- Proposing this highly unusual Bill 29 to reveal and share what is treated as confidential and sensitive business information in virtually all Canadian jurisdictions will not help rejuvenate the NWT's most important private sector industry.
- Respectfully, there are many more important actions that the Standing committee, regular MLAs and Cabinet can do to help reinvigorate the NWT's mineral industry, and candidly, none have come from this Private Member.

Industry Recommendations

The NWT Government, working together with the federal and Indigenous governments, need to take many constructive actions to reverse the decline in the minerals industry and mitigate the impending loss of benefits it provides to maintain our private sector economy and the benefits it provides for all stakeholders.

Bill 29 does not address this. This Bill is duplicative of other legislation, requires further reporting burden, and requires companies to share sensitive and competitive information. If there is little or no minerals industry in the NWT, there will only be lower to no royalty revenues.

It is our recommendation that the current system which protects business confidentiality should be maintained. Bill 29 should not be supported or passed for the reasons that we have provided.

----- end -----

August 17, 2021

Regarding:

Investment and Competitiveness Concerns with Northwest Territories Bill 29

EPAC supports and encourages transparency in the Government of the Northwest Territories energy information and data, but also recognises the need to ensure business competitiveness issues to support of economic growth. EPAC and its members believe that Bill 29: *Resource Royalty Information and Disclosures Statute Amendment Act* will create a negative investment climate for the development of Northwest Territories hydrocarbon resources and the proposals in the Bill are not in alignment with other competing jurisdictions in Canada or internationally.

The oil and gas industry invests and risks significant amounts of financial capital to explore and potentially produce oil and gas in the Northwest Territories. It is regular practice in Canada and in other international jurisdictions to allow those that invest this capital to have confidentiality provisions on their development given the dramatic upfront cost of their risk capital. The proposal in Bill 29 compromises the important company competitive situation and potentially provides confidential data beyond the Government of the Northwest Territories to those parties that would seek competitive advantage over those who have risked significant capital.

Bill 29 will have an immediate and negative impact on investment in oil and gas development in the Northwest Territories and will add a further significant challenge to those companies taking on the high levels of exploratory and development risks in often unexplored sub-surface environments.

Like other locations around the world that are geographically distance from where large amounts of goods and services are demanded, the Northwest Territories needs to have pro-business policies to ensure economic growth and jobs for those in the North as well as Indigenous Nations. EPAC and its broad set of members are not supportive of this Bill 29 given the negative economic impacts and businesses uncertainly to investors that the Bill will create.

Sincerely,



Tristan M. Goodman
President
The Explorers and Producers Association of Canada



THE SAHTU SECRETARIAT INCORPORATED

P.O. Box 155,
Deline, NT X0E 0G0
Tel: (867) 589-4719, Fax: (867) 589-4908

September 14, 2021

Mr. Jackie Jacobsen, Chair,
Standing Committee on Economic Development and Environment.
NWT Legislative Assembly
Yellowknife, NT

Dear Mr. Jacobson;

Re: Bill 29 - Resource Royalty Information Disclosure Statute Amendment Act

I am writing in my capacity as Chair of the Sahtu Secretariat, Inc (SSI), the regional land claim body in the Central Mackenzie Valley.

SSI supports the intent of the above-referenced Act and encourages your Committee to advance it for implementation consideration at the earliest moment.

We do suggest that the Bill be strengthened by requiring that the Minister “shall” disclose information of a confidential nature rather than leaving the discretionary “may” and that, further, the information so disclosed not be limited for use in “the development and evaluation of policy for the Government of the Northwest Territories”

As Indigenous governments we are, with all residents of the Northwest Territories, the beneficial owners of the subsurface resources and, as such, should be entitled to the full disclosure of the economic returns from the development of those resources.

Yours very truly,

Charles McNeely
Chair, SSI

cc SSI Board Members
Premier Caroline Cochrane

Ayoni Keh Land Corporation – Deline Gotine Government – Norman Wells Land Corporation – Fort Norman Métis Local #60
Land Corporation – Tuli't'a Land Corporation – Yamoga Land Corporation – Fort Good Hope Métis Local #54 Land Corporation.

Copy of Bill 29 EMAIL SUBMISSIONS

From: Zabey Nevitt <zabeynevitt@tlicho.com>
Sent: Monday, August 30, 2021 4:33:35 PM
To: Jeanne Yurris
Cc: Kevin O'Reilly
Subject: Initial Comments on Bill 29.

EXTERNAL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender's name and email address and know the content is safe.

I am writing on behalf of Tłıchǫ Government to provide initial views on bill 29 - Resource Royalty Information and Disclosures Statute Amendment Act. Tłıchǫ Government notes that the purpose, scope and implementation of the bill is unclear and at this time can't determine the impacts and would encourage further consultations. We would like to present to committee and will provide more expanded comments at that time.

In summary, the way the bill is drafted provides for the Minister to provide information to Indigenous Governments and regular MLAs that is currently confidential. The scope of what that information is remains unclear, and has the potential to be used in a manner that will allow for the distribution of private information between Indigenous Governments, the GNWT and companies in a way not supported by all parties.

In the briefing note it focuses discussion on royalty payments (presumably meaning royalty payments to public governments), but the text of the proposed bill is broader than that, allowing the Minister to "disclose information of a confidential nature for use in the development and evaluation of policy for the Government of the Northwest Territories." What exactly the scope of information captured by this provision would be is a bit hard to discern with clarity, and creates concerns.

We look forward to a continuing consultation.

Zabey Nevitt
Director (Interim), Department of Planning and Partnerships
Tłıchǫ Government
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From: Kevin O'Reilly <Kevin_OReilly@ntassembly.ca>
Date: Thursday, September 9, 2021 at 11:27 PM
To: Zabey Nevitt <zabeynevitt@tlicho.com>
Cc: Jennifer Franki-Smith <Jennifer_Franki-Smith@ntassembly.ca>, Jeanne Yurris <Jeanne_Yurris@ntassembly.ca>
Subject: RE: Initial Comments on Bill 29.

Zabey

Thanks again for copying me on the Tlicho Government initial concerns. I had hoped we would have an opportunity to meet before the public hearing but wanted to get back to you to respond to some of the concerns you have raised. I discussed the concerns raised in your email with the Law Clerk that is working with me on Bill 29. I would like to share the following.

The Bill proposes three small, targeted changes to the GNWT legislation governing mining and petroleum resources. The changes consist of the insertion of a new clause in each of the *Mineral Resources Act*, *NWT Lands Act* and the *Petroleum Resources Act*. The new clauses will follow others in that existing legislation that deal specifically with royalties only, including calculation and collection. No other information held by the Minister is covered by the Bill. Information that is not already in the possession of the Minister is not covered by the Bill. There are no obligations or duties to share or provide information covering any other matter.

The current *Mining Regulations* (s. 76(3)) and *Mineral Resources Act* (s. 59(2)) already allow the Minister to “disclose information of a confidential nature for use in the development and evaluation of policy for the Government of the Northwest Territories”. This has been interpreted and applied by the ITI Minister to mean royalty information sharing within GNWT only and not with MLAs or Indigenous governments.

The wording of the new clauses in Bill 29 will allow the Minister of ITI to share information on royalties with MLAs and Indigenous governments, subject to any restrictions on further disclosure as specified by the Minister. The royalty information can be used for the purposes of the development and evaluation of policy for GNWT, such as the mining fiscal regime review now underway by ITI.

I see the Bill as an interim step to allow the sharing of royalty information now during the current review. That review can also deal with information sharing and disclosure but it is hard to see how there can be a meaningful and comprehensive mining fiscal regime review without access to the actual mining royalty data and information already in the possession of the Minister.

Should the Tlicho Government have any concerns or questions, I remain available to discuss them. Thanks.

Mársı | Kinanāskomitin | Thank you | Merci | Hąj' | Quana | Qujannamiik | Quyanainni | Máhsı | Máhsı | Mahsi

Kevin O'Reilly

From: Zabey Nevitt [mailto:zabeynevitt@tlicho.com]
Sent: September 14, 2021 11:13 AM
To: Kevin O'Reilly
Cc: Jennifer Franki-Smith; Jeanne Yurris
Subject: Re: Initial Comments on Bill 29.

Kevin – unfortunately with the current focus on COVID I have not been able to turn further attention to the detail of the bill and will unlikely be able to present at committee.

We chatted previously about the process that was undertaken to develop the bill and I believe that you have recognized the importance of all parts of Public Governance in the NWT (including regular MLAs and private member bills) to engage and collaborate with IGs on new proposed legislation.

On the substance of the bill - Can additional language be considered that specifies the information is ONLY relating to resource royalties collected by GNWT to remove any potential future use of the clause to release information contained by the GNWT that would relate to individual Indigenous Governments? i.e., Benefit Agreement information or other.

If language can address that issue then Tłı chq Government's concerns are satisfied.

Thanks for reaching out to me and I apologize for the delay in response.

Zabey Nevitt
Director (Interim), Department of Planning and Partnerships
Tłı chq Government