



LAKE HURON

Gnishinabek

REGIONAL
MINING AND
NORTHERN
DEVELOPMENT
ROUND TABLE

SUMMER 2017



Produced by the Anishinabek Nation, Lands & Resources Department. Any duplication of this document without prior written permission of the Union of Ontario Indians is prohibited.

For additional copies of the publication, please contact:

Lands and Resources Department
Union of Ontario Indians
P.O. Box 711
North Bay, ON P1B 8J8
Tel: (705) 497-9127

Acknowledgements

This round table summary report was funded by the Ministry of Northern Development and Mines. Photos are courtesy of the Union of Ontario Indians. We thank all the Anishinabek community members and staff for participating, sharing their stories, and providing recommendations.



TABLE OF CONTENTS

PURPOSE AND OBJECTIVES:	2
TABLE DISCUSSION:	4
First Nation Caucus	
AN MNM Round Table	
Duty to Consult	
First Nation Capacity	
Awareness and Understanding of First Nations	
Revenue Sharing	
PROSPECTORS COURSE:	9
NORTHERN ONTARIO HERITAGE FUND CORPORATION:	9
SUMMARY:	11
ACTION ITEMS:	11

PURPOSE AND OBJECTIVES:

The Anishinabek Nation (AN) - Ministry of Northern Development and Mines (MNMD) Lake Huron Regional Table took place June 28, 2017 in Nipissing First Nation. This was the second meeting of the Regional Table as a result of the implementation of a new regional engagement framework put in place by the AN. The

Anishinabek Nation is divided into four regions, representatives of each member community of the Anishinabek Nation attend the Table corresponding to their Region. The purpose of this Table is to improve the ability of the Anishinabek communities and their members to engage with, and benefit from the development of minerals and mines in Anishinabek Territory. The Table meets quarterly and provides opportunities for information exchange, identification of issues of common concern, and development of solutions to challenges faced by Anishinabek communities

in engaging with the minerals and mines sector. The Table is also a tool for relationship building in that it provides opportunities for Anishinabek community members to meet on a regular basis with MNMD staff and to exchange information and ideas. The Table also helps to improve accountability of all parties to one another through the establishment and tracking of action points that are reported on at the Table. The Table is attended by Anishinabek leaders, mining, minerals or economic development portfolio holders and technicians from the communities of the Region.



The work of the Regional Table helps to support other elements of the relationship between the AN and MNDM. Issues identified at a Regional Table that are of a technical nature or those that may impact more than one region can be sent to the AN-MNDM Advisory Council, where a smaller group made up of representatives from all four Anishinabek Regions and the MNDM can focus on exploring options and recommending actions. The Table also provides an important link between localized communities and the AN-MNDM Bi-lateral Leadership Forum.




9 First Nation leaders, portfolio holders and technicians from the Lake Huron Region attended the Table. A representative of Whitefish River First Nation attended the Southeast/Southwest Regional Table held the month before due to a scheduling conflict. These Anishinabek representatives were joined at the Table by staff from the Lands and Resources Department of the Anishinabek Nation. The Ministry of Northern Development and Mines was represented by a number of staff.

The following are those who were in attendance at the Table:

First Nations Participants:

- 
- Andrew “Stitch” Manitowabi, Wiikwemkoong Unceded Indian Reserve
 - Anthony Laforge, Magnetawan First Nation
 - Cindy Behm, Sheguiandah First Nation
 - Don McGraw, Aundek Omni Kaning First Nation
 - Hannah Burke, Wahnapiatae First Nation
 - Leonard Genreux, Sheshegwaning First Nation
 - Chief Lloyd Myke, Magnetawan First Nation
 - Randy Restoule, Dokis First Nation
 - Richard Perrault, Garden River First Nation

Anishinabek Nation Participants:

- 
- Cameron Welch,
Policy Analyst
 - Tammy Desmoulin,
Program Coordinator

MNDM Participants:


- 
- | | |
|---------------------|------------------|
| • Brianne Fortinano | • Roy Deonomme |
| • Clayton Ralph | • Shannon Dennie |
| • Dominique Marleau | • Sophie Fortie |
| • Elizabeth Beers | |
| • Marli Kicz | |
| • Mary Perry | |

TABLE DISCUSSION:

First Nation Caucus

This meeting of the Table began with a First Nation Caucus. During this Caucus, First Nation representatives discussed their relationships with MNDM and mining companies. They also received an update on the mining and minerals related activities of Anishinabek Nation staff as well as activities of the Bi-lateral leadership Forum and the AN-MNDM Advisory Council. The Caucus provided an important opportunity for AN representatives to openly discuss a number of issues and share experiences with one another without the presence of the representatives of the MNDM.

AN-MNDM Round Table

After the First Nation Caucus, Anishinabek Nation representatives were joined by staff from MNDM. The Table discussion revolved around three presentations by MNDM. Topics covered by these presentations included Mining Act Modernization, Ontario Geological Survey's Prospectors Course, Northern Ontario Heritage Fund Corporation and Introduction to the Mining cycle or Mining 101. The following summarizes the discussion according to the themes that emerged from the Table.

Duty to Consult

The discussions of the Table turned almost at the outset to the Duty of the Crown to consult First Nations on projects that may affect their Aboriginal and Treaty rights. It was pointed out that the Province's Mineral Development Strategy emerged around the same time as three important Canadian Court cases that continue to guide understandings of the Duty of the Crown to consult and accommodate Aboriginal interests around resource development namely the *Haida*, *Mikisew* and *Sparrow* cases. Several Table participants expressed concern that it has taken so long for the Province to take their duty to consult with First Nations seriously. AN representatives also shared their concern with the fact that with conversion to on-line staking there will be additional challenges in ensuring that the Crown's duty to consult is fully comprehended and actualized by proponents many more of whom may be from outside of Canada once staking and maintenance of claims moves to an on-line environment. Members of the Table also encouraged MNDM to clarify their understanding of United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and to take the lead in the Province in integrating the content of the Declaration in policy and practice.

Picking up on this theme of additional claim making and exploration activity that may accompany the implementation of on-line staking, AN representatives to the Table underscored the need to improve the process of informing First Nations of changes in, or transfer of, ownership of claims so that First Nations can be clear about who should be consulting them. Further to this point, it was suggested that notification of change in claim ownership should also be shared with the Anishinabek Nation offices so that they may assist their member communities in navigating what can be a very complex business and ownership environment.

A First Nation Chief participating at the Table stressed the need for early consultation and suggested that even before a claim is registered to a proponent, that proponent should engage with the First Nation(s) on whose traditional territory the claim lies. In the words of the Chief *"Consultation is not an email. I get an email, I have to drop what I am doing and fight a fight now because a stake is claimed on my land."* In response, MNDM staff asserted that they are encouraging companies to engage in consultation as early as is possible in the mining sequence. Questions related to claim making, consultation and accommodation lead some members of the table to suggest that perhaps the Anishinabek Nation communities should have a form of right of first refusal when a claim is staked in their territory. The question of how to identify which First Nation(s) should be consulted by proponents and government lead to further affirmation by the Table of the need for *Anishinabek Values Mapping to be completed before further claims are made in Anishinabek territory*. MNDM representatives pointed out that First Nations may wish to focus their values mapping efforts on areas of high geological potential. MNDM committed to share localized maps depicting such areas with AN Table members.



Figure 1: AN and MNDM representatives discuss areas of high mineral potential in the Lake Huron Region during a break

Many Anishinabek members of the Table expressed issue with what they viewed as tight timelines that the MNDM policies associated with consultation. Particular concern was expressed about the 30 to 50 days that a First Nation has to respond to information or consultation requests related to development of minerals. Such concern motivated one member of the Table to ask if there had been any protocols between the Province and Indigenous Nations in relation to appropriate timelines for consultation and accommodation. In response, an MNDM staff person asserted that there may be protocols on a project basis. He further stated that MNDM does not rely on the deadlines set out in policy and regulation but rather relies on staff to follow-up with First Nations when and if they fail to respond to notification of potential mining-related activities in their territories. Rather than rely on a shifting practice by current staff the AN would prefer that those deadlines associated with response to notification be reviewed and extended to match the realities of First Nation capacity and procedural challenges in relation to responding to such notifications.

First Nation Capacity

The Table's exploration of consultation included many statements of the need for assistance for First Nations to deal with current and expanding levels of requests for information and consultation. Many members of the Table stressed the fact that their staff have multiple responsibilities and as such, do not have enough time and energy to properly process requests coming from the MNDM and proponents. There was discussion of MNDM's support of Mineral Development Advisors and the need for additional support for capacity on the ground in First Nations to further consultation and accommodation efforts and to ensure the Aboriginal and Treaty rights are protected and the Crown's duty to consult is fulfilled by the Province. MNDM stressed the movement towards a one-window approach to consultation that was said to be a way to improve the efficiency of consultation and lessen the burden on First Nations.

Regarding capacity, in my office we all end up with a pile of notifications on our desks. Different industries are working on the same project. Why can't industries work together? ...MNDM has been a steward in Ontario for consultation and taking a duty to consult seriously. I think MNDM could be a role model for consultation. MOECC did not consult with us on a project because they didn't think our level of interest was high enough. They are determining our interest.

(Mineral Development Advisor to an Anishinabek community)

The Anishinabek participants at the table stressed the need for training on the new on-line system of claim-making and with CLAIMaps. In terms of timing of the training, currently technicians are able to log into CLAIMaps and view what the provincial grid will look like but are not able to practice with the new system. This discussion highlighted the need for the Anishinabek Nation to work with the Ministry in short order to ensure that technicians are fully comfortable with the new system and existing maps before the new system comes on-line. Some members of the Table expressed the need for the AN to work to manage claims and consultation in a more coordinated manner. In the words of one table participant, *"It is better to focus on the higher level than just picking on the companies over and over again. If we could set up a framework for managing everything here, the problems evaporate. We should focus on these higher-level conversations and testing these programs and working out some of the kinks"*. The potential for AN communities to work with proponents to grant social licence was also explored by the table and is a topic deemed worthy of future discussion at the Table and across the Anishinabek Nation.

The exchange on consultation also included questions about how outstanding Aboriginal claims to lands and lake beds would be handled after conversion to on-line staking. It was stated by MNDM staff that after conversion, such areas under outstanding claims would appear as red and unavailable for staking under the newly emerging system. Anishinabek members of the Table requested future discussion of potential reserve land being staked in the new system and acting to limit additions to reserves in the future.

Awareness and Understanding of First Nations

A major topic of discussion related to the conversion to on-line staking was the need for those exploring for minerals in Anishinabek territory to understand more about Anishinabek culture, worldview and historical and contemporary relations to the land as well as governance structures. The importance of increased understanding of treaties and Indigenous rights was also stressed by the Table. One of the concerns of the Table was that with the conversion to on-line staking, there are additional opportunities for foreign individuals to stake claims in Anishinabek territory. The removal of the need to physically stake the claims removes the possibility that prospectors may encroach on First Nations Land without First Nation knowledge of the activities. At the same time, on-line staking also reduces opportunities for prospectors to interact with local First Nations communities. Table participants stressed the need for understanding of mining in Anishinabek territory to be about more than educating Anishinabek citizens about the mining sequence and the policies of the provincial government but also about those in government and industry learning about Anishinabek people and perspectives. In the words of one Table participant, *"There*

When you travel to another country you learn about their culture and language. They (foreign mining interests), should do the same thing when they come here to our territory.

(Anishinabek Nation Table Participant)

are big companies coming into Canada and they don't know who we are as people. The government does not know who we are, so the companies won't know who we are." One possible solution that can contribute to overcoming this challenge of increasing understanding is to improve the content of the prospector's course required by Ontario to get a prospecting licence to better reflect Aboriginal history, governance and rights and current perspectives on development of minerals in Anishinabek territory. All parties to the Table committed to working towards Anishinabek-specific content of the Mining Act Awareness Program.

When asked what the AN would like to see in place for foreign companies to know about First Nations and Aboriginal rights, one Table participant shared the following: at the earliest possible opportunity, determine which First Nation or Nations are impacted. That company needs to sit with that First Nation and listen and understand our perspective. *There needs to be an opportunity at the earliest possible moment. What can we do to get these two bodies together? There must be a way to satisfy the needs of the First Nations for consultation and accommodation. Otherwise there is no exploration or mining."*

Revenue Sharing

Sharing of revenues and other forms of benefits was stressed by the Table. In the words of one Table participant, *“Let’s see some results with capacity building and resource revenue sharing. There are companies taking resources out of our territory and we are getting nothing.”* It was pointed out that with proper revenue sharing between the AN and MNM and between AN communities and industry working in their territories, the capacity needs of the AN communities could be met. Many Table participants expressed the need to demonstrate the growing relationship between the AN communities and MNM through resource revenue sharing agreements. A Chief at the Table stressed the need for respectful Nation-to-Nation negotiations. The Table discussed the recent Bi-lateral Leadership Forum and the commitment by the AN and MNM to further explore mechanisms for resource revenue sharing. The AN staff present at the Table committed to keeping the Table up-to-date on progress around resource revenue discussions. One member suggested that the talk of revenue sharing between the AN and the Province has been going on too long with too few if any results. He went on to encourage AN communities to assert jurisdiction of mineral resources and shared the following, *“We should be the people holding the permit and give it to the highest bidder when it comes to development on our territory. Create that revenue yourself. Do not wait for the government to create a policy.”* The discussion of resource revenue sharing also included renewed calls for MNM to bring MNRF to the Table to discuss revenue sharing and business development opportunities related to aggregates.

PROSPECTORS COURSE:

The Prospectors course offered by Ontario Geographical Survey was discussed by the Table. The content and processes associated with the course was shared. The Table also discussed the level of commitment that would be required for an Anishinabek community to host the course for its members and possibly people from other communities. MNM shared that there is funding available for Aboriginal communities to attend the training course.

NORTHERN ONTARIO HERITAGE FUND CORPORATION:

Three programs offered by the Northern Ontario Heritage Fund Corporation were discussed by the Table during a presentation by MNM staff. The three programs described were the Strategic Economic Infrastructure Program, the Northern Community Capacity Building Program and the Northern Ontario Internship Program. According to the presentation, together these programs aim to “empower Northerners to take on new challenges, invest in their communities and strive towards a more prosperous future”. The Table discussed what these programs have to offer to Anishinabek communities and members of the Table explored the potential utility of these programs for the activities of their governments and communities. Staff from the Corporation agreed to share relevant contacts Heritage Fund Corporation representatives who can assist First Nations with proposals that they may submit to the fund. The list is reproduced below:

MNDM Northern Ontario Heritage Corporation Contacts:

<i>First Nations Community</i>	<i>Area Team</i>	<i>Contact Name</i>	<i>Phone Number</i>
Aundeck Omni Kaning FN	Sudbury	Kimberly Murch	705-564-7362
Atikameksheng Anishnawbek (Whitefish Lake FN)	Sudbury	Pierre Seguin	705-564-7515
Dokis	North Bay	Dominique Marleau	705-494-4184
Henvey Inlet FN	Sudbury	Kara McCaig	705-773-4217
Ketegaunseebee FN	Sault Ste. Marie	Karen Speers	705-945-5816
Magnetawan FN	Sudbury	Kara McCaig	705-773-4217
M'Chigeeng	Sudbury	Kimberly Murch	705-564-7362
Mississauga FN	Sault Ste. Marie	Suzanne Faubert-Astles	705-356-3004
Nipissing FN	North Bay	Dominique Marleau	705-494-4184
Sagamok Anishnawbek FN	Sault Ste. Marie	Robert Sjonnesen	705-848-5969
Serpent River FN	Sault Ste. Marie	Robert Sjonnesen	705-848-5969
Sheguiandah FN	Sudbury	Amanda Gunner	705-564-7362
Sheshegwaning FN	Sudbury	Amanda Gunner	705-564-7362
Thessalon FN	Sault Ste. Marie	Suzanne Faubert-Astles	705-356-3004
Wahnapitae FN	Sudbury	Pierre Seguin	705-564-7515
Wasauksing FN	Sudbury	Kara McCaig	705-773-4217
Whitefish River FN	Sudbury	Amanda Gunner	705-564-7362
Wikwemikong FN	Sudbury	Amanda Gunner	705-564-7362
Zhiibaahaasing FN	Sudbury	Amanda Gunner	705-564-7362

SUMMARY:


This meeting of the Lake Huron Regional Table was a success. The lively and informative discussion and exchange of information was of value to both the AN and MNM. The questions and points of discussion are illustrative of the utility of the Table for improving relationships and understanding between the AN and MNM.

ACTION ITEMS:

<i>Action:</i>	<i>Responsible Party(ies):</i>
Develop and implement a strategy for one-on-one training of AN technicians and portfolio holders on CLAIMaps and the new on-line staking system	AN and MNM
Share contact list for Northern Heritage Fund Corporation	MNM
Establish a procedure to notify First Nations and the AN when claims ownership is transferred or sold from one entity to another	AN and MNM
Invite MNRF to the Regional Table to discuss aggregates and opportunities for AN revenue sharing and business development	MNM
Develop and incorporate Anishinabek content into the Mining Act Awareness Program	AN and MNM
Share maps depicting areas of high mineral potential at a local scale	MNM

Potential Future Topics for Discussion by the Table

- YCS Ministry to speak about cultural resources and SOACS
- Claim making on reserve
- Right of first refusal for claims on Anishinabek territory
- *Mining Act and Aggregates Act*
- Update on revenue sharing
- Closure plans
- Effective response to consultation and information requests
- AN mining industry engagement



**The Mission of the Lands & Resources
Department is to foster a better quality of
life by ensuring access to natural resources
in support of the goals, principles and
values of the Anishinabek Nation.**



P.O. Box 711, 1 Migizii Miikan Road, North Bay, ON P1B 8J8

Ph: (705) 497-9127 ■ Toll Free: 1-877-702-5200

Website: www.anishinabek.ca