



SOUTHEAST

Inishinabek

REGIONAL
MINING AND
NORTHERN
DEVELOPMENT
ROUND TABLE

SUMMER 2017



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Anishinabek Nation and Ontario Minerals and Mines Southeast Regional Table Terms of Reference	

PURPOSE AND OBJECTIVES:

The Anishinabek Nation (AN)- Ministry of Northern Development and Mines (MNDM) Southeast Regional Table took place May 30, 2017 at the Chippewas of Rama 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 and others like it 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 concerns, and development of solutions to challenges. The Table is also a tool for relationship building in that it provides

opportunities for Anishinabek to meet on a regular basis with MNDM staff that can exchange information and ideas face-to-face on a regular basis. 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. For the purpose of the regional framework, the Southeast and Southwest regional tables meet together.



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. The following figure depicts the relationship between the Regional Table and other bodies that constitute the institutional relationship between the AN and MNDM:



12 First Nation leaders, portfolio holders and technicians from the Southeast/Southwest Regions attended the Table. 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:



Southeast Region (SE)

- Amber King-Robitaille, Beausoleil First Nation
- Dan Kohoko, Algonquins of Pikwakanagan
- Dave Mowat, Mississaugas of Scugog Island First Nation
- Jesse Johnson, Alderville First Nation
- Julie Kapyrka, Curve Lake First Nation
- Elder Myrna Watson, Chippewas of Rama First Nation
- Skye Anderson, Alderville First Nation



Southwest Region (SW)

- Anna Batten, Kettle & Stony Point First Nation
- Christine Rogers, Aamjiwnaang First Nation
- Courtney Jackson, Aamjiwnaang First Nation
- Valerie George, Kettle & Stony Point First Nation



UOI Participants:

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



Lake Huron Region (LH)

- Esther Osche, Whitefish River First Nation

Ministry of Northern Development and Mines Participants:

- Jennifer Simpson, Aboriginal Geoscience Liaison
- Karen Kettles, Consultation Support Officer
- Roy Denomme, Project Lead MAM
- Shannon Dennie, Mineral Exploration and Development Consultant

TABLE DISCUSSION:

First Nation Caucus

This meeting of the Table began with a First Nation Caucus. During this Caucus, First Nation representatives discussed the relationship with MNDM and mining companies with their First Nations. They also received an update on the mining and minerals related activities of Anishinabek Nation staff. 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.

Terms of Reference

Once MNDM representatives joined the table, the first order of business was to review the Terms of Reference (TOR) for the Table. A draft copy of the TOR was circulated at the last meeting of the Table. Cameron lead a discussion of each section of the TOR and a number of changes or adjustments to the TOR were adopted by the Table. The revised TOR for the Southeast Regional Table is included as an appendix to this report.

Mining 101

UNDRIP

Following the review of the Terms of Reference MNDM staff presented “Mining 101”, an explanation of the mining cycle and related MNDM policy. After introducing the mining cycle and the newly amended *Mining Act*, the first question that came from the Anishinabek asked the MNDM to articulate MNDM’s position on the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and its relation to the work and policies of MNDM. The response that came was that such a position was unclear and that the MNDM would undertake to respond to this question at a future meeting of the Table.

Environmental and Archeological Assessment

The Table spent significant time discussing the relationship between the mining cycle and environmental and archeological assessments. There was concern from the Anishinabek representatives at the Table that mining must avoid as much as possible negative environmental impacts and disturbance of archeological resources. Much of the dialogue centered around sometimes differing senses or definitions of significant impacts to the environment or archeological artifacts. MNDM pointed out that all development carries with it the potential to impact the environment and archeological resources, that environmental assessments are part of the mining cycle and that MNDM shares concern about the environment. Other members of the Table pointed out that even a small amount of disturbance can be environmentally or archeologically significant. The Table identified a need for additional discussion of the role of the *Heritage Act* and mining exploration or development. The discussion of archeological and environmental assessments also included calls from the Anishinabek representatives for environmental monitors. The Table then identified a lack of funds for such archeological assessments and the fact that much early exploration is done by small companies with limited budgets as a challenge to increasing the amount of archeological assessments that are done by project proponents. One potential solution to this challenge that was identified by the Table was to provide assessment credits to companies that conduct archeological assessments at the request of the First Nations impacted by a given development or to pay for First Nation or environmental or archeological monitors. One MNDM representative pointed out that if the Province was to grant assessment credits for an archeological study then the results of those studies could have to become public.

Question or Comment

Response

Does environmental protection mean that exploration is subject to environmental assessments?	No, but in advanced exploration there are environmental assessments.
What is the relationship between the <i>Mining Act</i> and the <i>Heritage Act</i> ?	There are two different ministries responsible for the enforcement of the two Acts. This relationship should be explored at a future meeting of the Table.
Whose protocol would you follow if you found an artifact? Would the proponent notify the First Nation? If the First Nation has a protocol on artifacts would you follow that?	If a First Nation has already identified a site of cultural significance, those terms and conditions will be used.

Sites of Aboriginal Cultural Significance (SOACS)

The discussion of archeological resources and the need to protect cultural resources then turned the conversation to creation and maintenance of Sites of Aboriginal Cultural Significance. MNDM discussed the roles of Sites of Aboriginal Cultural Significance. The discussion then became focused on the procedures that First Nations must follow to have their SOACS accepted by MNDM and subsequently reflected in the on-line claim-making and maintenance system. MNDM representatives stated that in response to concerns of First Nations, the provisions related to SOACS outlined in the *Mining Act* has been modified to make the process a more streamlined and responsive one. What emerged from this exchange was the understanding that if a First Nation wishes to establish a SOACS and withdraw that SOACS from staking then they simply need to submit a letter to MNDM and the site will be registered. The SOACS must be under 2500 hectares in size. It was also pointed out that MNDM only regulates the *Mining Act* and that registration of a SOACS does not preclude another ministry from issuing a permit for another type of development on the same piece of land. Some Anishinabek representatives expressed concern around protecting important archeological or cultural resources. In response a representative of the Ontario Geological Survey pointed out that SOACS are labelled as an alienation in the claims system and that a site is not identified as a site of cultural significance for members of the public.

If you know the area and if there was a lot of activity in the past, that area needs to be filed as a Site of Aboriginal Cultural Significance.

(MNDM Staff)

Question or Comment

Response

If someone told you that there could be a site of cultural significance, would you stop and do an archeological assessment?

Prior to any exploration occurring on the land if a site of cultural significance is filed, MNDM will withdraw the site. We encourage First Nations to contact us. But if a site has not been identified before exploration, in the interim, if a community identifies a site of cultural significance, the proponent and First Nation can collaborate so that site is not harmed in any way.

If a First Nation decides that they have an area that is important to them that is not archeological, but important to them, do we call you up and say this site has significance to me?

Yes. The Ministry is not worried about how significant the site is. The point is that it is significant.

I guess we can't pull back certain areas from early exploration?

Before an area is claimed, yes you can. Once it is claimed, then no.

The Table also discussed the applicability of environmental assessment laws. It was pointed out by MNDM that environmental assessments are carried out at the advanced exploration stage of the mining cycle. In response an AN representative pointed out that many Anishinabek Nations are opting out of environmental assessment laws that have been imposed on them and are in the process of formulating their own environmental assessment laws and that these laws are not limited to reserves but also are applicable to traditional territories. An MNDM representative added that the plans and permits process associated with the new *Mining Act* allows for terms and conditions to be applied to permits and that MNDM can put mineral development on hold until environmental concerns of First Nations are mitigated.

Exploration Plan vs. Permit Activities

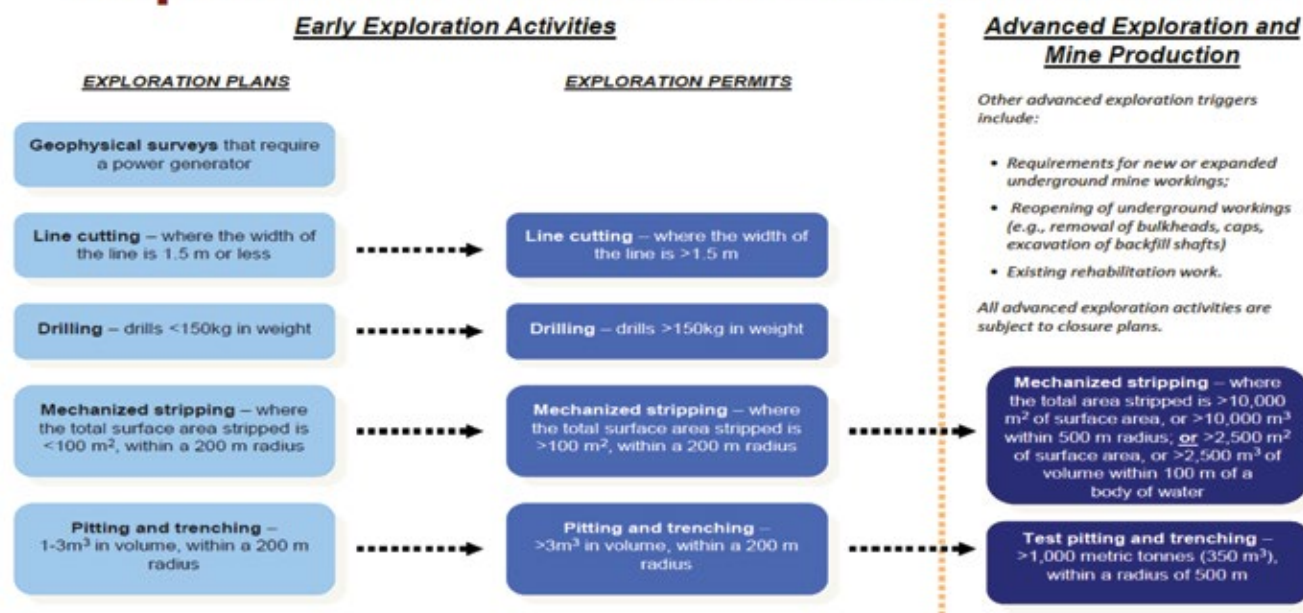


Figure 1 Exploration Plan vs. Permit Activities (From MNMD presentation)

Anishinabek Values Mapping

The Table's discussion included statements and explanations of the importance of values mapping in protecting Anishinabek values inscribed in the land as well as the natural and cultural resources of the Anishinabek that could be impacted by the development of minerals in Anishinabek territory. MNMD representatives encouraged members of the Anishinabek nation to conduct values mapping in their territory and pointed out that Sites of Aboriginal Cultural Significance could be identified during values mapping processes. One MNMD representative suggested that First Nations start values mapping where there is high mineral potential as exploration is only going to happen where there is a high mineral potential. The Table then agreed that MNMD will share maps on a local or regional scale that identify current mineral exploration and development activities as well as mineral potential so as to assist First Nations in identification of SOACS and values mapping. It was also pointed out that values mapping can be used as a tool to assist communities and governments to identify traditional territories as well as potential areas of overlap and in determining who should be consulted when mineral exploration or development occurs. All Table participants recognized the potential or utility of values mapping but some Anishinabek representatives expressed concern that they will not have enough time to identify SOACS or to complete values mapping of their traditional territories before conversion. The AN Values Mapping proposal to Grants Ontario was discussed during the First Nation caucus and received support from the AN members at the Table.

Mining Act Awareness Program

When discussing the need for proponents and those engaged in exploration to better understand Anishinabek peoples, communities and their rights and values, participants at the Table were informed that MNMD is in the process of revamping the Mining Act Awareness Program. This program is required training for all of those who become licenced prospectors in Ontario. The AN representatives at the Table stressed the need for more First Nations content and expressed a willingness to contribute to the program.

Consultation

MNDM's Mining 101 included explanation of the Plans and Permits system and how that relates to Aboriginal consultation. The AN representatives expressed the need for consultation to happen not just at advanced stages of exploration or development but from the beginning of the mining sequence. In the words of one AN representative from the Southeast Region "Consultation should start from the start of staking. Not just in exploration". AN representatives expressed concern with the current system and stated the fact that they often do not have the time or the resources to properly respond to requests for consultation or comment on a plan or permit application. MNDM representatives stated that they do their best to ensure that First Nations are given an opportunity to respond to plans and permit applications and that if they do not hear anything from a First Nation that has been contacted for comment then they follow up. However, if they do not hear from a First Nation after an attempt to follow up to the initial letter then "we can assume it is a go". AN participants strongly suggested that the language contained in the *Mining Act* should be strengthened requiring the Minister to ensure that proper consultation and accommodation has occurred that than considering or strongly encouraging proponents to consult with First Nations. The following slide illustrates Aboriginal community consultation according to MNDM's policy:

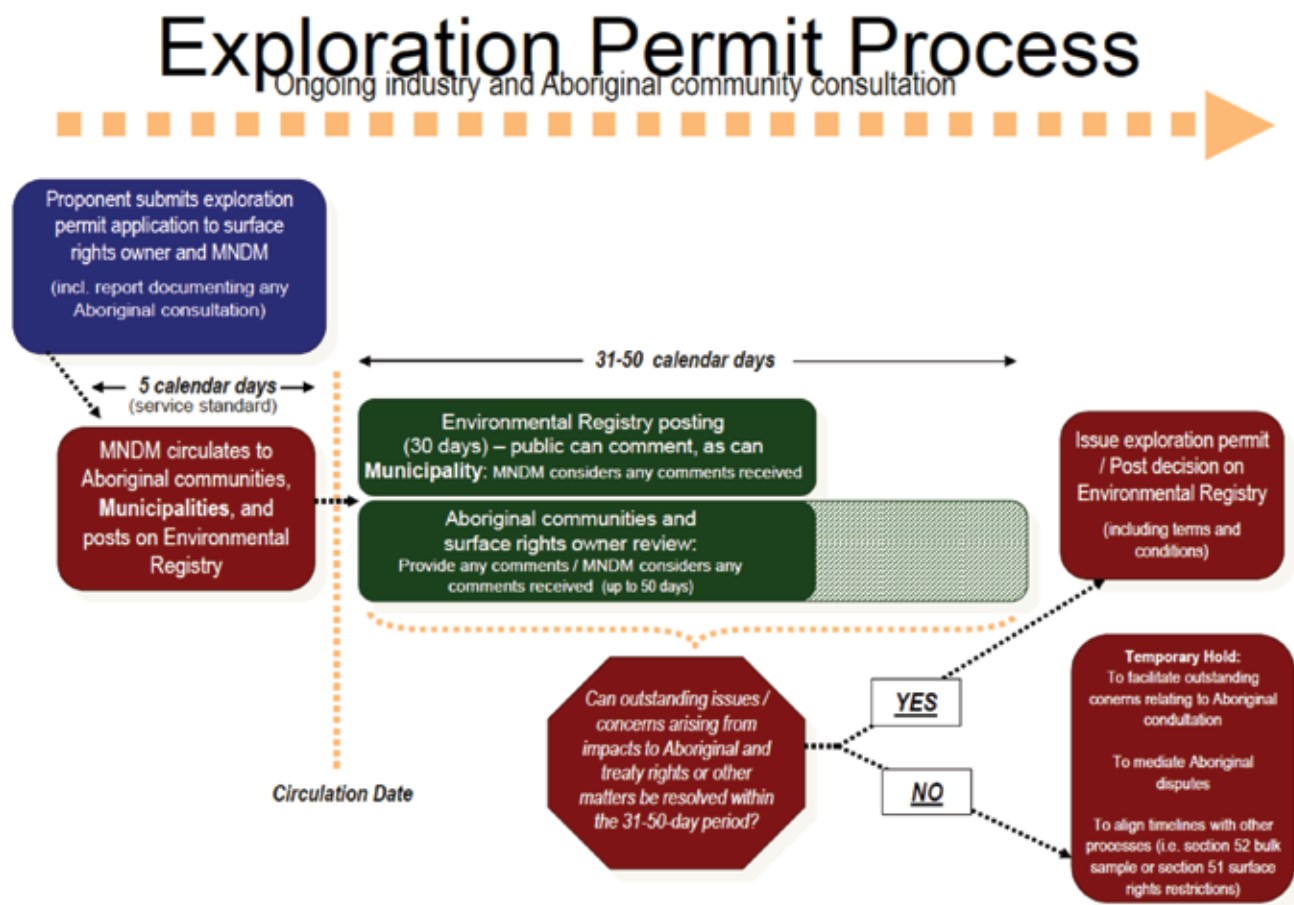


Figure 2 Aboriginal Community Consultation

According to MNMD representatives at the Table, the Plans and Permits required by the Mining Act together with conversion to online staking will help to ensure that the duty to consult and accommodate Aboriginal interests will be met. In the words of one MNMD representative, "That is exactly why we are going to on-line staking. You will not have anyone on the ground until consultation takes place. We are putting something in place until consultation has taken place. All that on-line staking does is it identifies a site where he wants to explore. The prospector does not own anything. Exploration only occurs after consultation occurs with the First Nation." AN representatives at the Table stressed the need for consultation to follow any consultation protocol identified by the First Nation(s) impacted by the development.

Closure Plans

All members of the Table expressed the need for consultation with First Nation groups about Closure Plans. The processes through which requirements for rehabilitation of the environment are included in Closure Plans was a primary focus of the conversation as was the potential trust issues between First Nation communities and proponents. Mechanisms to ensure that a company pays for rehabilitation of the mining sites were discussed along with the existence of dispute resolution mechanisms.

Question or Comment

With the Closure Plan, the rehabilitation measures, it that to bring it back to its original state?

Response

Near a natural state is what is required by the Act.

SUMMARY:

This meeting of the Southeast Table was a success. Although the Table did not get to all of the items on the agenda, the lively and informative discussion and exchange of information was of value to both the AN and MNMD. The large number of questions and points of discussion are illustrative of the utility of the Table for improving relationships and understanding between the AN and MNMD.



Figure 3 AN and MNMD participants discuss amendments to the Mining Act

ACTION ITEMS:

Action:

Responsible Party(ies):

Report back to the Table on the relationship between the work and policies of MNDM and the UNDRIP

MNDM

Provide localized and regional maps identifying current activity and areas of high potential to AN

MNDM

AN to provide some material to be incorporated into Mining Act Awareness course

AN participants/communities
Cameron and Tammy

Make changes to the TOR

AN

Establish date and location for next meeting

AN and MNDM

Provide information on requirements for MDA in southern AN communities

MNDM

Future Topics for Discussion at the Table

- Mining 101
- Prospectors Course
- On-line staking
- Consultation

Topics for Future Meetings

- Relationship between *Mining Act* and the *Heritage Act* with the Ministry of Tourism Culture and Sport
- Sites of Aboriginal Cultural Significance identification and registration
- What does MNDM understand about treaty areas
- Understand and responding to requests for comment and consultation
- Applying for and maintaining SOACS

APPENDIX 1: ANISHINABEK NATION AND ONTARIO MINERALS AND MINES SOUTHEAST REGIONAL TABLE TERMS OF REFERENCE

ANISHINABEK NATION AND ONTARIO
MINERALS AND MINES SOUTHEAST REGIONAL TABLE
EVOLVING TERMS OF REFERENCE
Version Date: June 8, 2017

INTRODUCTION

The Anishinabek Nation (AN) & Ministry of Northern Development and Mines (MNDM) Mining Technical Table (AOMTT) was established in 2008 as part of the Union of Ontario Indians (UOI) –MNDM Mining Agreement. The Technical Table is now known as the Anishinabek and Ontario Minerals and Northern Economic Development Advisory Council.

AN and MNDM representatives identified a need for an additional process that would include the four Anishinabek Nation Regions. Anishinabek communities have identified the need for a regional framework that will allow Anishinabek leadership and technicians to gather and discuss the local and regional priorities, concerns and opportunities with the MNDM. The regional framework also provides opportunities to increase communications and understanding of the needs and priorities of AN and MNDM.

In response to this need, four Regional Tables have been established in 2017. Mining and mineral extraction in Ontario is an important area of mutual concern and interest. All parties agree to use the Regional Table as a means to identify mining issues and opportunities and to further the relationships between Anishinabek communities and MNDM.

PRINCIPLES

1. The AN Southeast Region communities & MNDM affirm the basic principles of mutual respect, recognition, responsibility and sharing that will aim to build a relationship on sustainable trust
2. The parties recognize and respect the right of AN and MNDM to pursue their own agendas and priorities.
3. The parties recognize the importance of developing a mutual agenda and priorities. The Regional Table will provide direction to the Advisory Council on regional issues and priorities.

The parties will work closely to address policy concerns of the Anishinabek Nation as they relate to mining priorities. In order to maximize the effectiveness of communications and to ensure a practical and manageable means of partnership in resolving issues, regular discussions are required.

The Anishinabek Nation territory includes treaty catchment areas of the:

- Treaty 20 (Rice Lake) 1818
- Robinson Superior Treaty, 1850;
- Robinson Huron Treaty; 1850
- Williams Treaties (Chippewas), 1923
- Williams Treaties (Mississaugas), 1923
- Amherstburg Treaty, 1827
- Traditional Territory of the Algonquins of Pikwakanagan

Both parties are committed to recognizing and pursuing the purpose of the *Mining Act* as stated in Section 2: “The purpose of this Act is to encourage prospecting, staking and exploration for the development of mineral resources, in a manner consistent with the recognition and affirmation of existing Aboriginal and treaty rights in Section 35 of the Constitution Act, 1982, including the duty to consult, and to minimize the impact of these activities on public health and safety and the environment.”

Both parties are recognize the duty of Ontario to consult and accommodate as per the Aboriginal and treaty rights of the communities of the Anishinabek Nation.

Both parties recognize the importance of safeguarding environmental and cultural resources in relation to the development of minerals and mines on Anishinabek territory.

Both parties agree to respect the **Ngo Dwe Waangizid Anishinaabe** “One Anishinaabe Family” which states:

- **Debenjiged gii’saan anishinaaben akiing giibi dgwon gaadeni mnidoo waadiziwin.**
The Creator placed the Anishinabe on the earth along with the gift of spirituality.
- **Shkode, nibi, aki, noodin, giibi dgosodoonan wii naagdowendmang maanpii shkag-migaang.**
Here on mother earth, there were gifts given to the Anishinabe to look after, fire, water, earth and wind.
- **Debenjiged gii miinaan gechtwaa wendaagog Anishinaaben waa naagdoonjin ninda niizhwaaswi kino maadwinan.**
The Creator also gave the Anishinabe seven sacred gifts to guide them. They are:
 - **Zaagidwin, Debwewin, Mnaadendmowin, Nbwaakaawin, Dbaadendiziwin, Gwe-kwaadziwin miinwa Aakedhewin.**
Love, Truth, Respect, Wisdom, Humility, Honesty, & Bravery.

- **Debenjiged kiimiingona dedbinwe wi naagdowendiwin.**
The Creator gave us sovereignty to govern ourselves.
- **Ka mnaadendanaa gaabi zhiwebag miinwaa nango megwaa ezhwebag, miinwa geyaabi waa ni zhiwebag.**
We respect and honour the past, present and future.

PURPOSE

The purpose of the Southeast Regional Table is to meet regularly and create an opportunity for all parties to discuss mining issues, exchange information, develop options, and create solutions and resolutions to the various issues or opportunities that will benefit the Anishinabek Nation. The Regional Table will support the work of the Advisory Council and the Bi-lateral Leadership Forum and provide a crucial link between Anishinabek First Nation's leadership, portfolio holders, technicians and the Advisory Council and the Bi-lateral Leadership Forum.

REPORTING

The reporting process for the Regional Table will ensure the flow of information to Anishinabek communities via their representatives at the Table. Information from the Table will also be reported directly to the Advisory Council and the Bi-Lateral Leadership Forum as needed.

Reporting processes will include the following elements:

1. The content of Table discussions and decisions will be captured through minutes and meeting summaries prepared on the basis of meeting notes that will be done by a suitable person identified by the Table at each meeting.
2. It will be the responsibility of UOI Lands and Resources staff to ensure that meeting notes are transformed into a clear and concise meeting report. This meeting report will summarize major points of discussion and capture any action items or decisions taken by the Table.
3. The meeting notes will then be circulated to all members of the Table prior to the following meeting.
4. All Anishinabek Regional representatives are to report to their Chiefs & Regional Chiefs
5. UOI Lands and Resources staff will report on the activities of the Table to Leadership Council and to Grand & Special Assemblies as appropriate.
6. UOI Lands and Resources staff will report to the Department Advocacy Chief and Grand Council Chief.
7. UOI Lands and Resources staff will ensure that the Regional Table reports are submitted to the members of the Advisory Council.
8. The Advisory Council members will share Regional Table business with the Bi-lateral Leadership Forum as appropriate.
9. MNDM representatives will report to the ADM's of Mines and Minerals and Northern Development Divisions.

****The Anishinabek Regional Table participants reserve the right to communicate, inform and exchange information to the respected regions in a transparent manner****

ROLES:

The roles of the Table are:

1. Provide information on mining issues of mutual concern and interest, and impacts of changes to provincial programs on the Anishinabek Nation
2. Provide information on policy and practices that affect the development prospects of the Anishinabek Nation
3. Develop solutions and identify options for resolving past and present challenges or disputes

RESPONSIBILITIES

1. Meet four times per year or as required
2. Identify appropriate areas of concentration
3. Ensure the quorum of each party (AN or MNDM) is present in order to conduct the business of the table
4. Provide information in a timely manner on all mining related activities, workshops, conferences and events throughout the year to ensure opportunities are presented to the Anishinabek Nation.

MEMBERSHIP

The membership of the Table will consist of representatives from the Anishinabek Nation and MNDM as follows:

UOI:	UOI Lands & Resources staff Anishinabek leadership First Nation portfolio holders First Nation technicians
MNDM:	Senior and regional staff as deemed appropriate

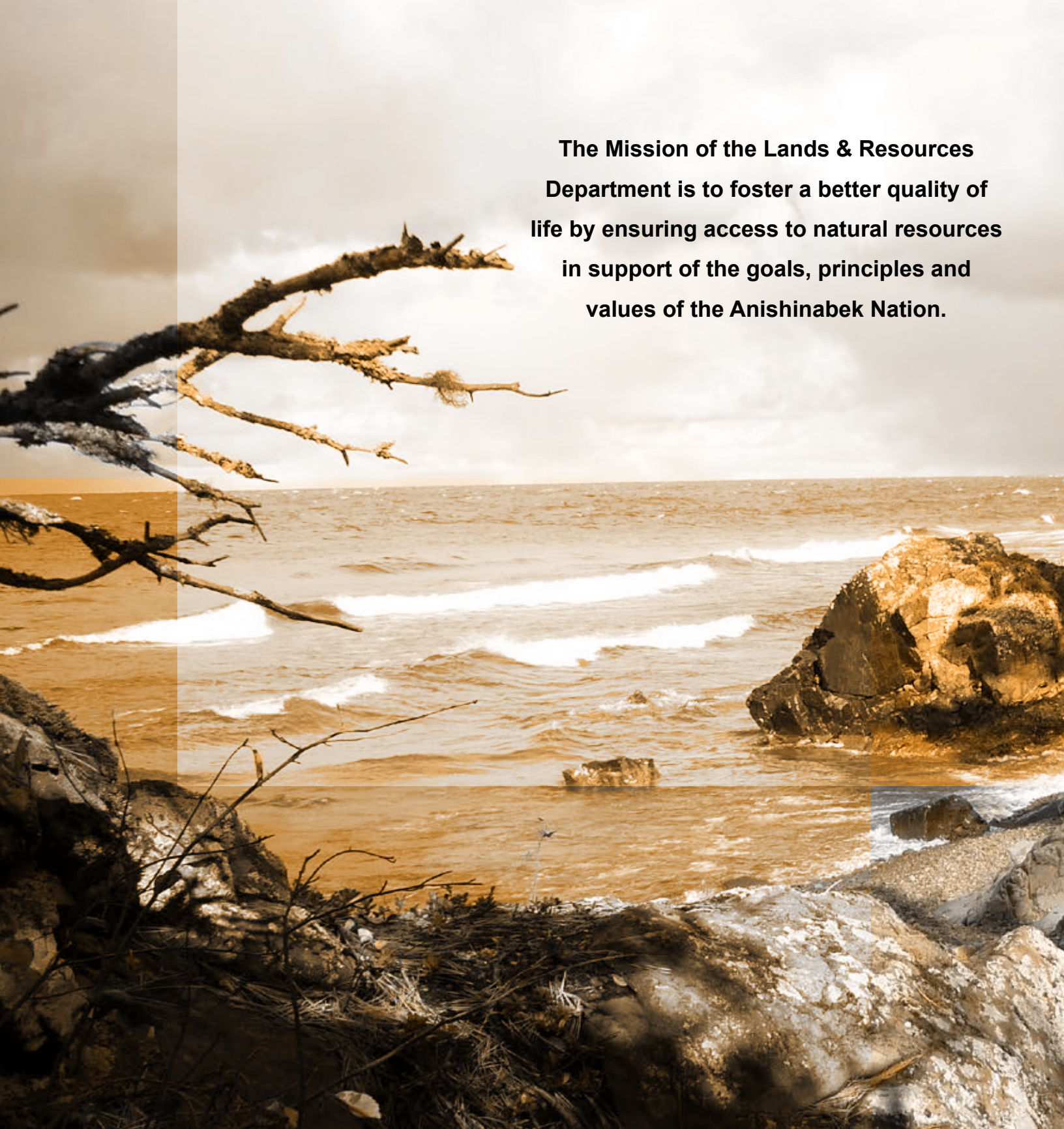
1. Members of the Regional Table will be appointed by respective parties at the table.
2. While only members of the Table will have the right to attend meetings of the Table, guests from the Anishinabek Nation and other Ministries or Departments may be invited to attend and participate as appropriate.
3. The Table Chairpersons will be selected through the designed organizations. In the case where a co-chairperson is absent, the remaining members will select one of their members to co-chair the meeting.

The CO-CHAIRS RESPONSIBILITIES are to:

1. Ensure that the meeting setting is prepared for each meeting; and
2. Lead the technical table discussions and ensure agenda is followed.

APPENDIX A – Anishinabek Nation and the Ministry of Northern Development and Mines Partnership





**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.**



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