

**Submission to the Law Amendments Committee
Bill 149 The Mineral Resources Act**

Submitted by the Nova Scotia Nature Trust and Nature Conservancy of Canada

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1.0 Introduction: Private Land Conservation and Provincial Priorities

Private land conservation, through the work of non-government land trusts, is widely recognized as making a significant and irreplaceable contribution to biodiversity conservation and protected areas in Nova Scotia. While land trust efforts are also recognized as having an even more critical role in the future, there is a barrier impeding effective progress for such efforts. The Mineral Resources Act provides an ideal opportunity to remove this barrier.

The "Now or Never" report of the Nova Scotia Commission on Building our New Economy calls for bold, innovative approaches to expand economic growth while ensuring environmental sustainability. The following submission recommends just such a bold and innovative proposal for the Mineral Resources Act.

Natural areas and economic development

Nova Scotia's natural assets contribute significantly to economic development in diverse ways from resource development to tourism and recreation. Our protected areas, from National Parks and Wilderness Areas to the Nature Trust's ongoing 100 Wild Islands efforts on the Eastern Shore, are critical to our unique tourism positioning and future success. They are also essential to the quality of life and lifestyle Nova Scotia offers and which is essential in retaining and attracting people and capital to our province.

Critical role of private land conservation

With over 70% of our land base in private ownership, and many of the Province's most threatened species and biodiversity hotspots occurring primarily on private land, the Province has long recognized that conservation on private lands is critical to protecting Nova Scotia's biodiversity and most special places.

Land trusts, like the Nova Scotia Nature Trust and Nature Conservancy Canada, are able to work cooperatively with private landowners to formally protect properties of outstanding conservation value, for wildlife and the public to enjoy. Our work is a critical complement to what government can accomplish primarily on government-owned lands. We are uniquely positioned to help landowners keen to protect their land, but seeking a non-government alternative. Our work is science-driven and focused on the most ecologically important sites in the province. By nature of private ownership in Nova Scotia, lands protected by land trusts (Land Trust Protected Areas) tend to be small but highly significant for conservation.

Because so many of our most ecologically important natural areas are on private land, land trusts are critical in helping the government meet its own environmental goals and commitments¹. Our work is also critical in meeting public expectations of the Government to protect Nova Scotia's unique natural heritage, especially with over 85% of our treasured coastal areas in private ownership.

Private land conservation also makes good economic sense. Land trusts have achieved significant conservation results, brought in millions of dollars in investment to the province and leveraged significant conservation through land donations, conservation easements and purchases below market value. Our work is highly cost-effective for conservation, as we can leverage much more in terms of private, corporate and foundation contributions, and more donated land value than government can. Land Trusts provide

¹ Nova Scotia has conservation commitments under the Environmental Goals and Sustainable Prosperity Act, the United Nations Convention on Biological Diversity and the provincial Biodiversity Strategy, the Environmental Goals and Sustainable Prosperity Act (EGSPA) and the Parks and Protected Areas Plan.

exception value per dollar spent on conservation, with Provincial investments in land trust efforts generating returns of over 300%.

With a limited Crown land base and many competing demands for that land, the importance of private land conservation in Nova Scotia will continue to grow. Increasingly, the Province will look to land trusts to help meet future conservation goals and commitments, and to meet the continued public expectation to protect wildlife and the landscapes and natural areas that define our province, that help drive our tourism industry, and that attract newcomers and bring Nova Scotians home. To enable land trusts to help government achieve its economic and environmental priorities, the Province must remove existing barriers to effective private land conservation.

2.0 Uncertainty, Risk, Minerals and Private Land Conservation

2.1 A Major Barrier to Effective Private Land Conservation

After a land trust has secured ecologically significant land, through donation, purchase or conservation easement, the land and the biodiversity it supports are still potentially at risk from the impacts of mineral exploration and development. This potential risk is a significant impediment to private land conservation.

The likelihood of actual conflict in use between mineral development and Land Trust Protected Areas is extremely low, with only 1,500 hectares of the current 320,000 hectares of active claim area overlapping with land trust properties (see Section 4.0 for more detail). However, the uncertainty of potential negative impacts from mining limits the irreplaceable conservation work land trusts can do, and is problematic for the mineral sector as well.

This issue poses a significant barrier to effective private land conservation, with ramifications for land trusts, landowners, funders, stakeholders and for the Province.

- **Natural values of protected areas are at risk**
Ongoing risk to the conservation values of the land is a problem in and of itself. The biodiversity and other natural values are not fully protected from potential impacts.
- **Landowner trust and engagement suffers**
Private land conservation is essential in Nova Scotia, yet it relies on voluntary participation by landowners. Landowners are reluctant to sacrifice considerable economic and personal benefits from their own land for the public good if the natural values remain at risk from mineral development. This uncertainty impedes conservation action by some landowners and the ability of land trusts to advance private land conservation effectively.
- **Public and private investment is at risk**
Significant time, money and work goes into identifying the private lands of greatest ecological value, protecting the lands and maintaining their conservation values through ongoing stewardship. Nova Scotians have demonstrated time and again that they treasure their protected areas. Citizens, businesses, foundations and all levels of government invest significantly in such conservation, and expect their natural values to be safeguarded. Land trusts are *entrusted* with protecting these lands against all forms of incompatible development and are accountable to the many stakeholders that make such work possible. The inability to guarantee protection against mineral development puts these accountabilities at risk, ultimately risking future investment in the province.
- **Provincial protected areas policy is inconsistent**
Land trusts' work is critical and complementary to nature conservation done by government, including Wilderness Areas and Nature Reserves. Land Trust Protected Areas, however, do not receive the

legislated protection against mineral exploration and development that provincial protected areas receive, creating inconsistency in policy.

- **Land Trust Protected Areas cannot be counted in national conservation reporting**

Lands owned and managed by land trusts do not meet international standards for protection because they have no formal protection from mineral development². The Province therefore cannot recognize these contributions in the national conservation areas reporting system. Nova Scotia's reputation benefits significantly from its conservation achievements, helping to position it as a progressive, clean, green, place to visit, live, work, and do business. Not being able to include Land Trust Protected Areas in national reporting means the Province loses out on these benefits and opportunities.

- **Requirements to protect American-owned lands are not being met.**

Some of Nova Scotia's most significant natural areas are owned by U. S. residents, many of whom are keen to protect their land. To receive tax benefits for their donations U.S. tax law requires that conservation easements are protected from any mineral development risk. The inability to provide such assurance poses a significant barrier to protecting these lands.

- **Loss of Land Trust Protected Areas benefits for the Province**

By discouraging private land conservation, the Province loses out on the most cost-effective conservation opportunities. It also loses opportunity to protect the many ecologically important sites, from endangered species habitat to the treasured coastline, which are predominantly in private ownership, as many landowners are reluctant to entrust their land to government. The positive benefits of such protected areas, for enhancing tourism, retaining and bringing new people and capital to the province, will not be fostered.

The government has long recognized the critical role of private land conservation in Nova Scotia and the challenges posed by this barrier. The government has also long encouraged land trusts and the government to work together towards resolution. Unfortunately the issue remains unsolved.

2.2 Rationale for a Legislated Solution

Current mechanisms to remove mineral development risk from Land Trust Protected Areas are neither feasible nor adequate. Land Trust Protected Areas can be granted Wilderness Area or Nature Reserve designation, which safeguards them from mineral development. Based on the large backlog of land trust properties awaiting designation, and the burden on government staff, this option would not be feasible for all land trust properties. Further, such designations impose other restrictions (such as banning hunting) which may oppose landowner or land trust objectives for the land. It would also create unnecessary duplication of effort with both government and land trusts required to take on a land management and stewardship burden for the same property. Most importantly, land trusts provide a complement to government protected areas options, filling the critical niche for landowners seeking a non-government alternative to protect our land. Requiring government designation of every land trust property would ultimately undermine land trusts, and eliminate a non-government alternative for conservation. Alternatively, under the current Act, the Minister may withdraw lands from mineral exploration for various purposes, but with Ministerial discretion to reverse the withdrawal, this option does not provide the certainty and longevity required to address landowners concerns, land trust accountabilities to supporters and stakeholders and international (IUCN) standards for protected areas.

² IUCN Resolution states that lands managed according to IUCN protected areas management categories I to IV must be legally protected from exploration and extraction of mineral resources. See <https://portals.iucn.org/library/efiles/documents/WCC-2nd-003.pdf> and http://cmsdata.iucn.org/downloads/iucn_advice_note_on_mining_in_wd_sites_final_060512_2.pdf

The issue of Land Trust Protected Areas being at risk from mineral development was first identified by the Private Land Conservation Enhancements Committee in 2004³. While action on this issue was recommended by the Committee, no solution has yet been put in place. Successive Ministers (Natural Resources and Environment) have recognized the need for resolution, and tasked the Nova Scotia Nature Trust and both departments with working together to find a legislative solution⁴. The Nature Trust has led such efforts for a number of years, consulting with government staff, conducting extensive research, exploring approaches in other jurisdictions and analyzing options for Nova Scotia. While a joint government/land trust recommendation has not yet been identified, this Mineral Resources Act review provides the ideal opportunity to find resolution.

3.0 Recommended Solution

3.1 Amendment to the Mineral Resources Act

The Mineral Resources Act currently allows for the Minister to withdraw lands from new exploration licenses for various purposes, such as temporary closures during the designation process for Wilderness Areas and Nature Reserves, and geoscience research. We are recommending a similar withdrawal concept for the purpose of conservation.

More specifically, we recommend amendments to the Act to enable the Minister to withdraw qualifying high value conservation land from the mineral development, subject to a balanced review of mineral and protected areas values:

1. Minor amendments to the Mineral Resources Act to enable the Minister (with Cabinet Approval) to withdraw lands from being subject to the granting of exploration licenses *and* special licenses and leases for government-approved Land Trust Protected Areas, and to enable related regulations.
2. Regulations to further define and limit such withdrawals, to outline associated criteria for lands eligible for application, timelines and process for review and approval, conservation organizations approved to apply for withdrawals, and the process for reversing withdrawals.

Specific wording recommendations for both the Act and Regulations, as well as sample forms for implementation are included in Appendices A, B and C.

Through numerous meetings with provincial government staff, managers, and directors, research and exploration of options for addressing this barrier in other jurisdictions, we have identified key factors which must be addressed to find a solution satisfactory both from the mining and the protected areas perspective, and from both a government and land trust perspective. Our proposed mechanism addresses all these

³ The Private Land Conservation Enhancements Committee was an inter-agency initiative led by the Nova Scotia Nature Trust with representatives from Department of Natural Resources, Nova Scotia Environment, Department of Finance, Service Nova Scotia and Municipal Services and the Nature Conservancy of Canada. The committee was set up by the Minister of Environment to identify the barriers to private land conservation and to make recommendations to government to address these barriers. Their final report was submitted in 2004 and included resolving the challenges presented by mineral development risk on Land Trust Protected Areas.

⁴ The Nova Scotia Nature Trust has long partnered with the Province in creating a positive, enabling climate for private land conservation through legislative changes, removing tax impediments, and creating tax incentives and funding opportunities. Success Ministers have encouraged continued joint efforts to find resolution to this barrier.

concerns. It will protect high priority conservation lands protected by nature conservation-focused land trusts. It will not open the door to massive areas of the province being closed down to mineral exploration and development.

In balancing the need for continued economic prosperity through mineral development and the need to protect our natural heritage, as well as ensuring ease of implementation, our recommended amendments address the following:

Withdrawals must be limited in their scope of application

- Limitation of eligible organizations
 - Open only to land trusts approved under the Regulations as Eligible Bodies (i.e. land trusts dedicated primarily to nature conservation and approved by Nova Scotia Environment and the Department of Natural Resources).
- Limitation of eligible lands
 - Open only to Government-approved lands. The lands must be protected by an Eligible Body through either fee simple ownership or conservation easement, and must be dedicated primarily to conservation of biodiversity and natural processes.
- Limitation of mineral rights impacted
 - Only applicable to the portion of the claim where it overlaps with the proposed property (not the entire claim)
 - Only applicable as long as the property remains a protected area. Should an area cease to be a Land Trust Protected Area (e.g. the land trust dissolves or a conservation easement is dissolved), the Minister, with approval of the Governor in Council, could re-open the land for mineral exploration.
 - Pre-existing mineral rights would not be affected.

Balance of mineral development and protected areas interests in the review and approval process:

- The application process should be balanced and fair
 - Managed jointly by Natural Resources and Environment. The two departments would strive to develop consensus recommendations on applications.
 - Department of Natural Resources staff would review applications for potential conflict with areas of high mineral including: the geological perspective (presence/absence); feasibility/practicality of mining; and the impact of the particular property in potential mineral development in the area (i.e. does a specific, small property, located at the edge of a claim actually impact the mining potential vs. a site at the core of a mineral hotspot etc.).
 - Nova Scotia Environment's review should ensure high conservation value and land protection standards.
- The application process would provide scope for individual applications to be turned down on the basis of high mineral potential, low conservation value, or low protection standards.
- There would be clear guidelines and a legislated process for application, approval and removal of a withdrawal.
 - Government review and approval process would have clear timelines to ensure it does not impede conservation success.
 - Applications would not be denied unreasonably. Clear criteria for acceptance and rejection would be developed.
 - Should an application be denied, the land trust would not be eligible to re-apply for the same land for five years, unless a material change in circumstances had occurred.
 - Applications should be reviewed and decided upon in an expeditious manner.
 - Granting of new rights on private conservation lands subject to a withdrawal application would be postponed until a decision was made on the withdrawal application.

Cabinet-level Approval:

- The requirement for Cabinet approval is included to provide certainty over time. Such commitment is required for national/international recognition as a protected area, to gain landowner support for voluntary conservation and to ensure accountability to the private, business and government investors in the conservation of the lands.

Safeguarded from mischievous applications and misuse:

- The proposed application process prevents abuse of the mechanism (e.g. groups using withdrawals to work against mineral development without true biodiversity conservation intent). The proposed process restricts application to government-approved land trusts meeting strict criteria that ensures the organizations are truly dedicated to nature conservation. It ensures the lands are ecologically important and being managed to IUCN standards for protected areas. Further, the proposed legislative amendments empower government to revoke the status of an organization.

Minimal workload on government staff:

- In crafting the recommended legislative amendments, careful thought has been given to keeping the process streamlined, simple and straightforward to implement, with minimal burden on staff or land trust time. Only a handful of organizations (biodiversity-focused land trusts meeting the legislated requirements) would be eligible to apply. The recommended application process for eligible bodies and for withdrawals is simple and straightforward. While there would be an initial backlog of Land Trust Protected Areas to review, the ongoing review and approval of properties on an annual basis would be limited (likely under 15).

4.0 Lessons Learned from Other Canadian Jurisdictions

Important insights for Nova Scotia can be gained by examining solutions put in place by two other jurisdictions in Canada. Manitoba has led the way on addressing the need for exclusions of mineral exploration and development on Land Trust Protected Areas. The Manitoba Mines and Minerals Act⁵ provides a general allowance for closures (withdrawal of Crown mineral right under Section 14). In addition, a Memorandum of Association has been signed with key land trust partners that defines tracks closures for conservation purposes with these specific organizations.

See http://www.gov.mb.ca/conservation/pai/mb_network/pdf/ncc_moa_amend_2009.pdf

Under the Memorandum, the Province agrees to ensure that no person engages in mining on the properties. The rights are withdrawn through Regulation or ownership of rights by the land trust. According to Nature Conservancy Canada staff in Manitoba, the process has been very successful. They have a good working relationship with partners at the Province, and all requests to date have been approved, encompassing 6,500 hectares of land.

While this model shows the feasibility and successful implementation of a withdrawal type mechanism for Land Trust Protected Areas, it has downfalls. The process is not clearly defined and articulated in legislation. It requires negotiation of separate agreements with each land trust organization, for each

⁵ The Manitoba Mines and Minerals Act, Section 14 allows the Minister, by order, to withdraw open Crown mineral land from exploration, staking out and lease. See <http://web2.gov.mb.ca/laws/statutes/ccsm/m162e.php>

protected area, creating a large burden on government and land trust staff. Also, the power to implement and to remove closures is vested with the relevant Minister, rather than provincial Cabinet. This does not provide the certainty required for land trusts, landowners and the many agencies, funders and partners for whom land trusts have obligations to protect our lands. Enshrining the solution in legislation and requiring Cabinet level approval would provide greater clarity, consistency and certainty for all parties over time.

The Quebec Mining Act⁶ also allows for exclusions of any prospecting or mineral development activities on lands withdrawn by Ministerial order for purposes including creation of parks, protected areas, ecological reserves, or biological refuges. To date, such withdrawals have not been used for Land Trust Protected Areas, but could be. Again, withdrawals can be reversed at the discretion of the Minister, minimizing the potential to truly address the barriers posed by mineral development risk to Land Trust Protected Areas.

The issue of mineral development risk in Land Trust Protected Areas has been recognized in other jurisdictions and efforts have begun to find solution, providing precedent and experience to build upon here in Nova Scotia. Yet we also have opportunity to show leadership, by creating the most effective solution in Canada. We are already emerging as a national environmental leader. We rank second in Canada in parks and protected areas commitments, we have created the most progressive property tax incentive program for private land conservation in Canada, and created the Nova Scotia Crown Share Land Legacy Trust, a funding model other jurisdictions seek to emulate. We have an opportunity to be bold and to create our own made-in-Nova Scotia solution.

4.0 Negligible Impacts on Mineral Development

Implementing this proposal would have negligible if any effect on the pursuit of mineral development in the province for several reasons:

Small size and extent of Land Trust Protected Areas

- Land trusts work exclusively on protecting private lands, which tend to be small in scale (average 80-100 ha, 200 – 250 acres).
- They focus only on the most ecologically significant lands, making a highly significant contribution in terms of biodiversity conservation, but not in overall area. Total Land Trust Protected Areas to date cover only 17,000 hectares.
- Land contemplated for withdrawal would be restricted to those of outstanding ecological significance, and protected to IUCN guidelines (categories I – III) by government-approved, nature conservation-focused land trusts.

Minimal overlap between Mineral Claims and Land Trust Protected Areas (see Figure 1)

- Land Trust Protected Areas make up a very small portion (17,000 hectares) of the 321,000 hectares under active claims.
- After 20+ years of active private land conservation, less than 1500 hectares of Land Trust Protected Areas overlap with active claims. This is less than 0.5% of the claim area
- The likelihood of conflict between a Land Trust Protected Area and the area of mining interest within that small area of overlap (i.e. within the 1,500 hectares) is minimal.

⁶ Under Section 304 of the Quebec Mining Act, the Minister may, by order, reserve to the State or withdraw from prospecting, mining exploration and mining operations any mineral necessary for purposes that the Minister considers to be in the public interest, including the creation of parks or protection areas; plant-life and wildlife conservation; and classification as an exceptional forest ecosystem or biological refuge under the Sustainable Forest Development Act. See http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/M_13_1/M13_1_A.html

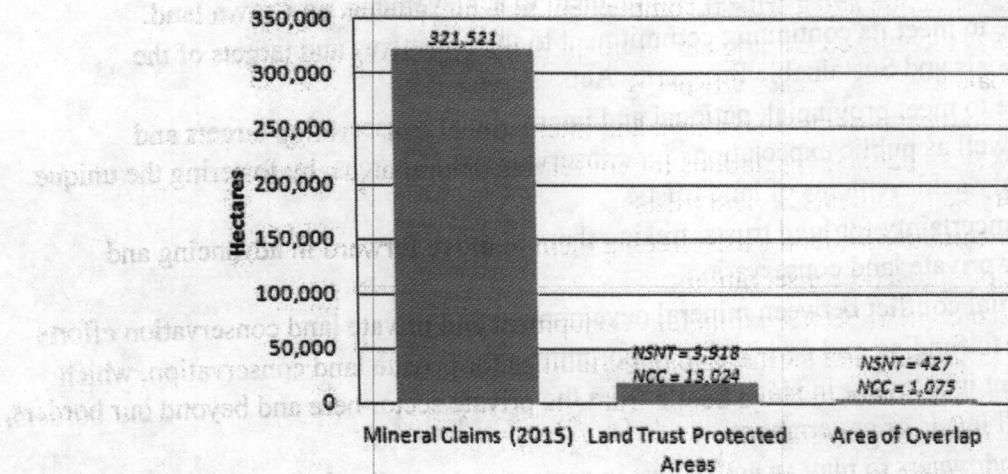
- The chances are even more remote that excluding mineral activity on one small property (or a portion of it) would impact development within the claim area (i.e. the likelihood is low that a particular 50 acre land trust property, perhaps at the edge of large claim area, would impact potential mineral development)

Balanced approach to decision making on withdrawals

- The approval process includes review of mining potential, so application for withdrawal on high value mining sites could be denied. These would be expected to be extremely rare circumstances.

Figure 1: Overlap between Mineral Claims and Land Trust Protected Areas

(April 2013 Mineral Claim Data)



5.0 Direct benefits to the mineral resource sector:

Implementation of the proposed amendments will achieve several important results:

- A transparent approval process for withdrawals, with safeguards against abuse, and limited scope of application for withdrawals.
- Balance between protected area and mineral interests. Where high mineral development potential exists, an application for withdrawal can be declined.
- Greater certainty for both land trusts and the mineral industry, with reduced potential for unanticipated conflict between mineral development and protected areas. All approved Land Trust Protected Areas would be automatically documented clearly on mineral claim mapping.
- Reduced potential for unanticipated conflict between mineral development and protected areas.
- Reassurance. Once all current Land Trust Protected Areas are reviewed and either approved or declined for withdrawal, industry members will be able to see the very limited overlap with areas of high mineral development potential.

6.0 Benefits for the Province

Implementation of the proposed amendments will achieve several important results:

- Demonstrate an exemplary success in moving towards the One Nova Scotia vision, cooperating and innovating to foster economic growth while sustaining environment.
- Further advance Nova Scotia's profile in Canada as a leader in environment and sustainable development.
- Ensure that all protected areas in Nova Scotia meet international guidelines and count towards national environmental reporting.
- Ensure consistent provincial policy on mineral development and protected areas.
- Enhance opportunity for private land conservation, the most cost-effective mechanism for land conservation in Nova Scotia and a critical complement to achievements on Crown land.
- Help the Province to meet its continuing commitment to the objectives and targets of the Environmental Goals and Sustainable Prosperity Act.
- Help the Province to meet provincial, national and international conservation targets and commitments as well as public expectations for conserving natural areas, by fostering the unique and complementary achievements of land trusts.
- Reduce a major uncertainty for land trusts, freeing them to move forward in advancing and enhancing further private land conservation.
- Reduce the potential conflict between mineral development and private land conservation efforts.
- Remove a barrier to funding and partnership opportunities for private land conservation, which result in significant investment in Nova Scotia from the private sector here and beyond our borders, as well as from all levels of government.
- Enable private landowners to play an active part in protecting Nova Scotia's natural legacy

7.0 Conclusion

We are proposing a simple, straightforward, and easily-implemented solution for resolving the issues around risk of mineral development impacts on Land Trust Protected Areas. It addresses both mineral development and land conservation interests, offering a balanced, fair, and consistent mechanism for decision making. Implementation of our recommended solution will remove a major impediment to advancing private land conservation in Nova Scotia.

The Commission on Building our New Economy expressed hope that the Mineral Resources Act review will provide a modern and responsive legislative framework to promote sustainable resource management that is successful both economically and environmentally, and helps Nova Scotia to benefit more fully from our valuable resource base. We are proposing an effective mechanism to take more full advantage of natural resource benefits both through mineral development and protected areas. It makes good economic and ecological sense.

The Commission emphasizes that reaching the One Nova Scotia vision calls for boldness, innovation and collaboration. It requires us to "do things differently and to change old attitudes that limit our capacities to come together in common cause." We encourage the Province to take an exciting step in this direction, by making a change in the Act that is not solely in the interest of the mineral industry, but embraces the significant complementary opportunities we have to use our natural resources to build a better future for all Nova Scotians.

The Commission further encourages entrepreneurship and empowerment of Nova Scotians to take action to support our one economy. Land trusts are prepared to play an even more significant role in helping the Province to meet both provincial conservation commitments and goals, and public expectations around protecting Nova Scotia's biodiversity and special places. Land trusts are ready and able to help to protect the assets so critical to future economic prosperity. They are keen to continue leveraging significant investment in Nova Scotia, and providing a highly cost-effective partner in conservation. But first, the Government must first remove this barrier.

We hope the government will seize this opportunity to empower land trusts and private citizens to leverage even greater conservation benefit for the Province and its future.

APPENDIX A

Proposed Amendments to the Mineral Resources Act and Regulations

MINERAL RESOURCES ACT

Be it enacted by the Governor and Assembly as follows:

Definitions

1. Section 2 of Chapter 18 of the Act of 1990, the Mineral Resources Act, as amended by ...[list of other Acts amending Chapter 18] ..., is further amended by

(a) adding immediately after clause (f) the following clause:

(ff) "Eligible Body" means, for the purposes of this Act, a charitable land trust organization dedicated to biodiversity conservation and prescribed by Regulation under this Act.

(b) adding immediately after clause (i) the following clause:

(ii) "Land Trust Protected Area" means, for the purposes of this Act, any lot of land that is

(i) subject to a conservation easement that is primarily dedicated to the protection of biodiversity and natural processes, and is entered into in perpetuity within the meaning of the Conservation Easements Act, or

(ii) owned by an Eligible Body and primarily dedicated to the protection of biodiversity and natural processes;

Excluding any buildings or structures on the land and any of the land used in connection with those buildings or structures, and excluding any lands used or permitted to be used primarily for purposes other than the protection of native biodiversity and natural processes.

Withdrawal of lands and special licenses and leases

2. Chapter 18 is further amended by adding immediately after Section 22(9) the following heading and Section:

Withdrawals for Land Trust Protected Areas

22(A)(1) The Minister may, upon application by an Eligible Body prescribed by this Act and with the approval of the Governor in Council, withdraw Land Trust Protected Areas in the Province from being subject to granting of exploration licenses, special licenses and leases.

(2) Where any land, or part thereof, to which this Section applies, ceases to be Land Trust Protected Area, the Minister, with the approval of the Governor in Council, may re-open the land for granting of exploration licenses, special licenses and leases.

Regulations

Section 174, subsection 1 of Chapter 18 is further amended by adding immediately after (ac) the following clause:

(ad) respecting the withdrawal of Land Trust Protected Areas from being subject to the granting of exploration licenses, special licenses, and special leases.

REGULATIONS

Section 72(1) of the Mineral Resources Act Regulations made under section 174 of the Mineral Resources Act S.N.S 1990, c. 18, is amended by adding immediately after Section 72 the following Heading and Section:

72a

Ministerial Direction

- (1) For the purpose of subsection 22(A) of the Act, the Minister may, with the approval of the Governor in Council, direct that any lands within a Land Trust Protected Area are withdrawn from any new mineral exploration licenses, special licenses and leases.
- (2) A direction under subsection 22(A) must be given to the Registrar, who must then indicate on the appropriate claim reference maps that the area designated by the Minister is restricted from the activities specified by the Minister.
- (3) A direction issued by the Minister under subsection 22(A) may only be amended or rescinded by an Order-in-Council from the Provincial Cabinet.

Scope of Withdrawals

- (4) Withdrawals apply only to that section of a claim overlapping the Land Trust Protected Area.
- (5) For lands with existing active claims, the withdrawal comes into effect upon expiry of the current claim, or can be given up voluntarily before the claim's expiry date by the current claim holder.
- (6) Withdrawals remain in place as long as the lands remain a Land Trust Protected Area. If the lands are no longer a Land Trust Protected Area, the Minister, with the approval of the Governor in Council, may re-open the land for granting of exploration licenses, special licenses and leases. The withdrawal is removed from the claim reference map.

Designation as an Eligible Body

- (7) An organization may apply to the Minister to be designated as an Eligible Body.
- (8) An Eligible Body must meet the following minimal criteria:
 - (a) a land trust organization dedicated primarily to conservation of biodiversity and natural processes.
 - (b) registered as a Canadian charity (equivalent in the organization's jurisdiction).
 - (c) approved as an Eligible Body under Nova Scotia's Conservation Easements Act
 - (d) approved as an eligible recipient of Ecological Gifts (if a Canadian organization).
 - (e) in good standing with the Registrar of Joint Stock Companies (or equivalent authority in the organization's jurisdiction).
- (9) Applications are reviewed by Nova Scotia Environment and Department of Natural Resources staff, with joint recommendation to the Minister of Natural Resources.
- (10) If the Minister is satisfied that an organization has complied with these regulations, the Minister may approve the application and recommend to the Governor in Council that the organization be designated.
- (11) Approvals are granted by the Governor in Council.
- (12) Application for designation must be made on Form 20 and must include all requested information.
- (13) The applicant must be notified of the outcome of an application within 90 days of the application.

Revocation of Designation as an Eligible Body

- (14) A designation may be revoked and the organization's name removed from the relevant Regulation if the organization:
 - (a) fails to remain legally incorporated without purpose of gain for its members under legislation that requires that any profits or other benefits to the organization be used solely to promote its objectives.
 - (b) fails to maintain current registration and good standing issued by the Registrar of Joint Stock Companies (or equivalent authority in the jurisdiction in which the organization was incorporated or registered).
 - (c) amends its objects so that they are no longer directed to purposes that are beneficial to the public and no longer primarily directed toward the conservation of biodiversity and natural process.
 - (d) contravenes the Act or these regulations.

Application for Withdrawal under Section 72a

- (15) An Eligible Body may apply to the Minister for a withdrawal for a Land Trust Protected Area.
- (16) Application must be made on Form 21 and must include all requested information.
- (17) Application may be made in advance of the registration of a conservation easement or acquisition of land by the Eligible Body. The withdrawal comes into effect upon registration of the conservation easement or registration of the deed in the name of the Eligible Body.
- (18) Applications are reviewed by Nova Scotia Environment and Department of Natural Resources, with recommendations to the Minister of Natural Resources.
- (19) If the Minister is satisfied that an organization has complied with these regulations, the Minister may approve the application and recommend to the Governor in Council that the withdrawal be enacted and indicated on the claim reference maps.
- (20) Approvals for withdrawal are granted by the Governor in Council.
- (21) Withdrawals may not be unreasonably withheld. Should an application be denied, written explanation must be provided to the applicant. The Eligible Body may not re-apply on the same property for five years, unless a material change in circumstances had occurred.
- (22) The applicant must be notified of the outcome of an application within 90 days of the application.

Proposed Form 20 – Application for Designation as an Eligible Body

(pursuant to Regulation 72a of the Mineral Resources Act, S.N.S. 1990, c. 18, s. 2)

Name of Organization

Date application submitted

Contact name

Address

SS

Telephone

Email

Organization's Purpose/Mission

Is your organization a land trust primarily dedicated to protecting natural areas of ecological significance? ☐ Yes ☐ No Explanation _____

Attachments:

- ☐ proof that the organization has been legally incorporated without purpose of gain for its members under legislation that requires that any profits or other benefits to the organization be used solely to promote its objectives
- ☐ proof of current registration and good standing issued by the Registrar of Joint Stock Companies (or equivalent authority), designation as an Eligible Body under the Nova Scotia Conservation Easements Act, designation as an eligible recipient of Ecological Gifts (if Canadian), and designation as a registered charity in Canada (or equivalent)
- ☐ a copy of the objects and by-laws of the organization confirming that the objects are directed to purposes that are beneficial to the public, and primarily directed toward the conservation of biodiversity and natural process.
- ☐ description of the organization's stewardship and management program and evidence of its ability to manage lands to IUCN category 1 or 2 standards.
- ☐ a fee in the amount of \$25.00.

For Office Use Only:

Recommendation to Minister by Nova Scotia Environment and Department of Natural Resources staff

- ☐ Accepted by Minister Date: _____
- ☐ Approved by Cabinet Date: _____ O.I.C.# _____
- ☐ Rejected Date: _____

Explanation (if rejection):

- ☐ Applicant notified of decision Date: _____

In accordance with Mineral Resources Regulations 72a made under section 174 of the Mineral Resources Act S.N.S 1990, c. 18, c.2 please be advised that the applicant must be notified of the application outcome on or before 4:00 p.m. on _____ (90 days from the application date)

APPENDIX B

Proposed Form 21 – Application for Withdrawal

(pursuant to Regulation 72a of the Mineral Resources Act, S.N.S. 1990, c. 18, s. 2)

Name of Eligible Body

Date application submitted

Contact name

Address

Telephone

Email

Property Number(s)

Type of Protected Area ☐ Conservation easement held by applicant ☐ Land owned by applicant

Size of Protected Area: _____ ha.

Summary of Ecological Values of Protected Area and Rationale for Withdrawal:

Claim block(s) overlapping with the Protected Area:

- _____
Attachments: ☐ Property location map
 ☐ Aerial photo
 ☐ Copy of Conservation Easement (if applicable)
 ☐ Ecological description of property and management/stewardship plan overview

Signature of applicant

Date

For Office Use Only:

Recommendation to Minister by Nova Scotia Environment and Department of Natural Resources staff

Rationale/Statement of Facts

☐ Accepted by Minister

Date: _____

☐ Approved by Cabinet

Date: _____

O.I.C.# _____

☐ Rejected

Date: _____

Explanation (if rejection):

☐ Applicant notified of decision

Date: _____

☐ Registered on claims map

Date: _____

In accordance with Mineral Resources Regulations 72a made under section 174 of the Mineral Resources Act S.N.S 1990, c. 18, c.2 please be advised that the applicant must be notified of the application outcome on or before 4:00 p.m. on _____ (90 days from the application date)