

Workshop on Legal and Institutional Barriers to Collaboration Relating to Orphaned/Abandoned Mines

Manitoba Perspectives

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Workshop on Legal and Institutional Barriers to Collaboration Relating to Orphaned/Abandoned Mines

Outline

- Overview of Provincial Legislation
- Interjurisdictional Challenges to Collaboration
- Lessons Learned from Contaminated Sites Legislation

Legal and Institutional Barriers to Collaboration

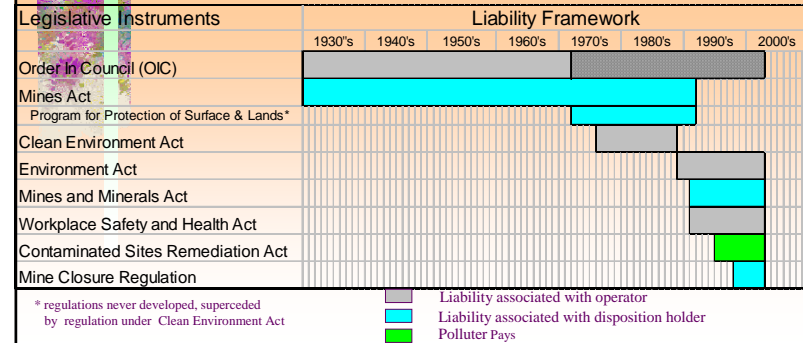
Mines and Minerals Act M162, Section 202:

The minister may direct the department to take action:

“...where a mine is abandoned or operations are temporarily or permanently discontinued and the operator of the mine is unknown or is no longer within the province...”

Provincial Legislative Framework

- complex history
- variable liability framework
- no specific context for orphaned/abandoned mines



Interjurisdictional Challenges to Collaboration

Fisheries Act:

- Section 36 - letter of warning
- standards for remediation

War Measures Act:

May establish Federal liability for strategic minerals development

Interprovincial Coordination:

Joint regulatory committee government agencies and industry

Manitoba Contaminated Sites Remediation Act

Lessons Learned

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CONTAMINATED SITES ACT

- CHAPTER 40
- The Contaminated Sites Remediation and Consequential Amendments Act (CSRA)
- Assented to November 1996
- Proclaimed May 1997
- 3(3) CSRA does not apply to sites under The Mines and Minerals Act
- 60(1)(k) application of CSRA by regulation to mine sites

CCME GUIDING PRINCIPLES

- Polluter pays
- Fairness (allocation of liability)
- Openness, accessibility & participation
- Beneficiary pays
- Sustainable development (integrating environmental, human health and economic concerns)

CCME GUIDING PRINCIPLES

- Broad net cast to determine responsible parties (RP's)
- Cost recovery of public funds expended on remediation from RP's
- Process for efficient cleanup & fair allocation of liability
- List factors for allocation of liability

CCME GUIDING PRINCIPLES

- Alternative Dispute Resolution procedures
 - Voluntary allocation
 - Mediated allocation
 - Direct allocation
 - Default to joint & several liability
- Designation process
- Certificate of compliance
- Benchmarks for remediation

MANITOBA CONTAMINATED SITES REMEDIATION ACT

- PART 1 INTERPRETATION & APPLICATION
- PART 2 INVESTIGATION & IDENTIFICATION
- PART 3 RESPONSIBLE PERSONS
- PART 4 REMEDIATION
- PART 5 APPORTIONMENT

MANITOBA CONTAMINATED SITES REMEDIATION ACT

- PART 6 COST RECOVERY
- PART 7 APPEALS
- PART 8 OFFENCES & PENALTIES
- PART 9 GENERAL PROVISIONS
- PART 10 CONSEQUENTIAL AMENDMENTS

CONTAMINATED SITE

- A location at which soil, sediments, groundwater or surface water are contaminated at a level which poses or may pose a threat to human health and safety or the physical environment

IMPACTED SITE

- Means a site where contaminants are present in concentrations above background levels, but which do not pose a risk to human health or safety or the environment

REMEDIATION

THE MANAGEMENT OF THE SITE IN ORDER TO PREVENT, MINIMIZE OR MITIGATE DAMAGE TO HUMAN HEALTH OR THE ENVIRONMENT OR TO RESTORE ALL OR PART OF THE SITE TO A USEFUL PURPOSE

MANITOBA CONTAMINATED SITES PROCESS

- Site Investigation (Phase I & II Assessment)
- Risk Assessment
- Remediation Proposal
- Department Approval
- Closure Report
- Department Acknowledgment