October 15, 2018

Dear [Name],

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (File # NR-170-2018)

On September 25, 2018, the Department of Natural Resources received your request for access to the following records/information:

I would like a copy of the following Briefing Note written in August 2018: Clarification of processes regarding mineral exploration.

I am pleased to inform you that a decision has been made by the Department of Natural Resources, confirmed by the Deputy Minister, to provide access to the requested record. The record is attached.

As set out in section 42 of the Act you may ask the Information and Privacy Commissioner to review the department’s decision to provide access to the requested information. A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your request should identify your concerns with the department’s response and why you are requesting a review.

The request for review may be addressed to the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P.O. Box 13004, Stn. A
St. John’s, NL A1B 3V8
Pursuant to section 52 of the Act, you may also appeal directly to the Supreme Court Trial Division within 15 business days after receiving the department’s decision.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

For further details about how an access to information request is processed, please refer to the Access to Information Policy and Procedures Manual at http://www.atipp.gov.nl.ca/info/index.html.

If you have any questions, please feel free to contact me at 709-729-0463 or rhynes@gov.nl.ca.

Sincerely,

[Signature]

Rod Hynes
ATIPP Coordinator
Title: Clarification of processes regarding mineral exploration

Issue: The Newfoundland and Labrador Prospectors Association (NLPA) is seeking clarification from NR in relation to obtaining consent from other licencees when carrying airborne geophysical exploration; and the notification and approval process to carry out basic prospecting work.

Background and Current Status:

- The NLPA is a not-for-profit association established in September 2012 to represent prospectors throughout Newfoundland and Labrador. The NLPA is governed by four executive positions (President, Vice President, Treasurer and Secretary), four Regional Directors (Eastern, Central, Western and Labrador) with alternates, a Student Director and three Director at Large positions.

- The NLPA has over 300 members located in 125 rural and urban communities within the province. Seed money was provided to the association by several individuals, mining and exploration companies and industry groups.

- The mission of the NLPA is to:
  o Act as a strong independent advocacy group and network on behalf of all member prospectors in the province.
  o Partner with other stakeholders to raise awareness about and create new initiatives for prospecting in NL.
  o Develop new educational and training programs to increase the knowledge and skill level of NL prospectors.

- NR met with officials of the NLPA on May 15, 2018 to discuss concerns brought forward from its membership. These concerns included:
  o requirement to obtain a water-use licence for small-scale drilling equipment,
  o obtaining consent from adjacent licencees when carrying out airborne geophysical exploration work, and
  o the process of exploration approval for basic prospecting.

- The water use-licencing requirement for small-scale drilling has been resolved through discussions between NR and MAE.

- NR has modified its referral process such that when prospectors who indicate the use of small-scale drills on their exploration approval applications, these applications are no longer referred to MAE and hence there is no requirement to obtain a water-use licence.

- Section 12 of the Mineral Act (the Act) provides direction on whom may carry out mineral exploration and where consent is required other licencees.

- Regarding consent to carry out exploration work on another’s mineral licence, the NLPA is seeking clarification on whether consent is required in the case of incidental data collection during airborne geophysical exploration work.

- Section 41 of the Mineral Regulations (the Regulations) provides direction on the notification and approval process for mineral exploration based on the planned scope of work.
Subsection 41(1) indicates that a licencee must submit to NR a description of planned exploration work before commencing the work,

Subsection 41(2) indicates that for exploration work that involves mechanized activities, approval is required from NR, and

Subsection 41(3) indicates that exploration work on non-licenced areas does not require notification to NR.

NR’s current practice is that exploration approval is required for all exploration work on licenced areas, regardless of the scope of work. An approval includes a referral process to other departments based on the proposed scope of work. Prospecting generally is referred only to the Provincial Archaeology Office, but indigenous consultation is also required in Labrador.

NR determines the scope of work after review of the Application for Exploration Approval document that is submitted by a proponent.

An exploration approval document contains several general terms and conditions that are applicable to all documents and specific conditions stemming from the referral process.

The NLPA does not support the need to acquire an exploration approval for doing such as they believe these activities are non-intrusive and have no impact on the environment. Such activities are permitted on non-licenced areas under Subsection 41(3) of the Regulations.

A draft correspondence has been prepared to address concerns and provide direction to the NLPA regarding obtaining consent from licencees when carrying airborne geophysical exploration; and the notification and approval process to carry out basic prospecting work.

Analysis:

Airborne geophysical exploration

Section 12 of the Act requires that a person obtain consent to carry out exploration work on a licence that is not licenced to that person.

In terms of application of Section 12 of the Act for airborne geophysical work, which may include incidental data collection from other licences, consent is not required as long as the contractor collecting the data does not share the data with a third party.

Any data collected and submitted to NR (via an assessment report) must be clipped to contain only the data from the target mineral licence (ie. exclude the incidental data).

Sharing of the incidental data would require consent from the appropriate licencee under Section 12 of the Act.

Notification and approval process for prospecting

Section 41 of the Mineral Regulations (the Regulations) requires submission of a description of the planned exploration on a mineral licence or mining lease, prior to the commencement of exploration work. Such plan requires specific and detailed information to be submitted.

The Application for Exploration Approval document is suitable to collect the necessary information and meet the requirements of the Regulations.
Proponents planning to carry out basic prospecting work will be required to complete and submit this document to NR. NR will continue its current referral process.

For basic prospecting work, prospectors may opt to immediately begin work without waiting for approval (as was previously required). A list of general conditions that are normally attached to current approval documents will be provided to the NLPA to guide responsible prospecting activities.

NR will recommend to the NLPA that its members wait to begin work until after the referral process is complete and to submit work plans well in advance of the proposed activities.

**Action Being Taken:**
- JPS reviewed the issues of airborne geophysical exploration and notification and approval process for prospecting and provided input for this note and correspondence to NLPA.
- NR plans to modify its process to not require exploration approval for basic prospecting work. However, regardless of the scope of work, a detailed exploration plan must be submitted by the prospector.
- The Mineral Lands Division has consulted with NR’s Communications Division and plans to provide updates to NR's website to communicate any change in process.
- The Mineral Lands Division drafted a response to the NLPA summarizing the current issues and providing response to address.

**Prepared/Approved by:** K. Sheppard / P. Canning  
**Ministerial Approval:** Received from Hon. Siobhan Coady

**August 20, 2018**