

**Yukon Legislative Assembly
Whitehorse, Yukon
Wednesday, April 14, 2010 — 1:00 p.m.**

Speaker: I will now call the House to order. We will proceed at this time with prayers.

Prayers

DAILY ROUTINE

Speaker: We will proceed at this time with the Order Paper.

TRIBUTES

In remembrance of Polish airplane accident victims

Speaker: Under tributes, on behalf of all Yukoners, I would like to express our condolences to the people of Poland for the tragic loss they suffered on April 10, 2010. On that day, an airplane carrying President Lech Kaczynski crashed near Smolensk, in Russia. The terrible crash killed 96 people, including President Kaczynski, his wife, top government officials, aides and lawmakers, military personnel, religious representatives, national historic figures and many more.

It is tragically ironic that the president and his entourage were travelling to Russia to mark the 70th anniversary of the 1940 massacre of thousands of Polish officials near Katyn during World War II — another tremendous loss of life that deeply affected the Polish nation.

Poles and Canadians of Polish descent are in mourning. It is difficult for us to imagine the effect that this tragedy will have on the country of Poland. But we have all seen the public expressions of grief shown by the Polish people.

I would ask all members of this Assembly to send their prayers and best wishes to all of them. I ask all members of this House and all Yukoners to think of them in their hearts and prayers as well. This is a difficult time for the Polish people, and they should know that they have the support of the Members of the Yukon Legislative Assembly and the people of the Yukon as they do the work to overcome an incredible tragedy that has deeply affected their nation. Thank you.

In recognition of International Day of Pink

Mr. Fairclough: I rise today on behalf of all Members of this Legislative Assembly to mark Day of Pink. Day of Pink is an international day against bullying, discrimination, and homophobia in schools and communities. Along with this, what really moved the national capital region GSA network to create and share this day with the world is the third annual Pink Shirt Day in Canada. This anti-bullying day is normally the last Wednesday in February, but in order to keep the focus on this very important issue, it was moved, so as to not conflict with the Olympic and Paralympic Winter Games.

The premise behind Pink Shirt Day was begun by David Shepherd and Travis Price who, at the time, were two grade 12 students in Nova Scotia.

These young men had heard that a grade 9 boy had been harassed for wearing a pink shirt on the first day of school. They went out and bought 50 pink shirts and then e-mailed

their friends with the idea of them wearing pink shirts the next day at school. They called their campaign, “The Sea of Pink”. The following day, dressed in pink shirts and armed with all other pink shirts, they headed off to school. When they arrived at school and were getting ready to hand out the pink shirts, they discovered that many kids had already heard of their plan and had come to school dressed in pink. This seemingly small action by these two men to stand up for a boy they did not even know has not only led to a following in Nova Scotia and Canada, but now an International Day of Pink.

Across the world, discrimination continues to be the leading source of conflict. Discrimination is racism, sexism, homophobia, transphobia and many others. These social diseases affect how we work, how we study and treat one another and they create barriers, bullying, harassment, hate and violence.

Day of Pink is more than just a symbol of a shared belief in celebrating diversity. It is also a commitment to being open-minded and understanding of differences and to learning to respect one another regardless of our backgrounds and our beliefs.

Discrimination and bullying go hand in hand. Everyone can relate to bullying in one form or another. Not one person I’m sure can say that they have never been touched in some form by this destructive behaviour regardless, of their gender, age, culture, religion, sexual orientation or nationality.

Bullying is a misuse of power and must be stopped. As the young man in Nova Scotia found out, all it takes is standing up and stating that what is happening is wrong and will not be tolerated. One simple act of wearing a pink shirt started the movement to say no to any form of bullying. This act shows everyone that it is okay to come forward and stand up for others who may not have the means to stand up for themselves. Wearing pink emphasizes the importance of taking a stand against all bullying at home, at school and in the workplace.

We may never completely eliminate bullying from our society, but to do nothing makes us truly part of the problem. Now is the time to make each and every one of us part of the solution. Do your part and stand up to any and all bullying. Thank you, Mr. Speaker.

In recognition of the Yukon Environment Fair

Hon. Mr. Edzerza: I rise today on behalf of all members of this House to pay tribute to the Environment Fair and Environment After Hours to be held this weekend in Whitehorse.

Mr. Speaker, the Government of Yukon works to maintain a biologically diverse environment, including the sustainable use of natural resources. Each of us has the ability to choose wisely, in ways big and small, how we can help conserve our environment. With awareness and education, this becomes much easier. To this end, I am pleased to advise this House of the Environment Fair to take place in Whitehorse this Saturday. Environment Yukon is organizing this interactive day-long event. Our goal is to bring the public together with a diverse range of organizations and government services involved with protecting Yukon’s environment. This is a family-focused version of the annual environment forum hosted by the department since 2007. The fair’s theme is “Biodiversity in your back-

yard". Our goal is to show how the International Year of Biodiversity links to the day-to-day lives of Yukoners. Of course we are right in the middle of Yukon Biodiversity Awareness Month with just a week to go until Earth Day. There are playful and practical reasons to visit the Environment Fair. The playful includes a biodiversity university and an elk-bugling contest. The practical includes purchasing your fishing and campground permits and perhaps elk bugling for some too.

Dozens of organizations and department branches are working creatively and cooperatively on the Environment Fair. I invite all MLAs to join me on Saturday, April 17, at the Canada Games Centre. I commend the good work of the organizers and organizations involved in the Environment Fair. It is through efforts like this that government can foster broad public support for, and participation in, our efforts to manage Yukon's environment sustainably and wisely.

Environment Yukon has also organized an evening event to cap off the day. Environment After Hours is a free public event that is part of the department's ongoing commitment to open meaningful communications with Yukoners. We are delighted to have award-winning anthropologist Wade Davis as the guest speaker. Dr. Davis has a unique way of expressing how one can live in and appreciate the environment in its entirety.

Each of us has the ability to choose wisely when it comes to actions that affect the diverse range of our life in our environment. I hope that the Environment Fair and the Environment After Hours presentations will help us all remember the importance of biodiversity and recognize the environment as more than water, trees, animals and rocks and how we are all connected.

In recognition of National Volunteer Week

Hon. Mr. Lang: I rise today to mark National Volunteer Week in Canada. National Volunteer Week is between April 18 and 24. I am paying tribute today in support of the Volunteer Fair taking place at the Canada Games Centre in order to profile the important role of volunteers in our communities. I urge the members of this Legislature to join me in honouring those who volunteer their time and skills to improve the quality of their lives in our Yukon communities.

If we take a moment to think about the role of volunteers in our day-to-day lives, we can probably find few areas that are not enriched by the good work of our volunteers. Yet if you were to ask Yukoners who volunteer, many of them probably give little thought to their volunteer activities because as individuals and as a culture, this is just simply what we do. We give back to our communities and in doing so, we make them better places to live.

Consider the many services we enjoy, and the many events that fill our monthly calendars and shape the culture of our communities. Volunteers help to provide these services and make these events succeed — whether sporting events, cultural events, music festivals or other events that make our communities vibrant places to live.

I want to draw your attention to two groups of volunteers that help achieve the mandate of the Department of Community Services. First, I wish to highlight the contribution of the vol-

unteers who support the involvement of Yukoners in sports and recreation. Promoting active and healthy lifestyles through sport and recreation contributes to our healthy communities. While much attention is given to the achievement of our athletes and teams, we can scarcely speak about sport and recreation events without acknowledging the contribution of our volunteers. Through their efforts, Yukon athletes and recreational sport enthusiasts enjoy opportunities to improve their fitness, develop their skills, excel in their sports and develop social networks that benefit them on and off the field. These volunteers are found hosting ski events, officiating at sports complexes, timing events along roadways, trails and riverbanks, working fundraisers and organizing small and major events. They do this all in the service of our communities, their friends, and, of course, their families.

I also would like to draw attention to another group of volunteers who help us when we need help most. You have heard me before praising the many women and men who serve in our volunteer emergency response organizations throughout the territory. Those who serve as emergency medical responders, volunteer firefighters, and search and rescue team members are most worthy of our praise, and they deserve the thanks of all of us and all of the Yukon. Their dedicated commitment to our communities contributes enormously to the well-being and security of each and every one of us. They commit to ongoing and rigorous training to improve their skills and help keep them sharp. They participate in regular training exercises and competitions. They give up their time off, their weekends and sometimes their wages to help us when we are sick, injured or lost or when fires and floods threaten our homes and our businesses. They contribute enormously to healthy, vibrant Yukon communities.

In closing, Mr. Speaker, I wish to thank our sports and recreation volunteers, our emergency response volunteers and all Yukoners who volunteer their time. They contribute so much to our families, our communities and of course the territory. We simply cannot do without you. Thank you, Mr. Speaker.

Speaker: Any further tributes?
Introduction of visitors.

INTRODUCTION OF VISITORS

Hon. Ms. Horne: I am pleased to ask the House to recognize Mickey Fisher of Faro. Mickey was a former minister of the Yukon government. He is currently a councillor with the Town of Faro and currently the chair of Yukon Housing Corporation.

Applause

Speaker: Any other introduction of visitors?
Returns or documents for tabling.

TABLING RETURNS AND DOCUMENTS

Hon. Mr. Hart: I have for tabling today the Yukon Hospital Corporation audited financial statements for March 31, 2009.

Mr. Cardiff: I have a document for tabling, entitled “Riding Report McIntyre-Takhini, Winter 2009”.

Hon. Mr. Kenyon: I have for tabling or, in fact, have already tabled one of our recycled bags from the Yukon Liquor Corporation, which are currently being released. One has been provided to each member of the House.

Speaker: Any further documents for tabling?
Any reports of committees?
Any petitions?
Any bills to be introduced?
Any notices of motion?

NOTICES OF MOTION

Mr. Cardiff: I give notice of the following motion:
THAT this House urges the Yukon government to delay debate on Bill No. 82, *Civil Forfeiture Act*, until a further sitting to allow sufficient time to have meaningful public consultation on its implications for Yukoners.

Speaker: Are there any further notices of motion?
Is there a ministerial statement?
This then brings us to Question Period.

QUESTION PERIOD

Question re: Thomson Centre reopening

Mr. Mitchell: The Minister of Health and Social Services has a few problems with his budget this year. Estimates presented earlier this sitting show the minister plans to spend \$18 million less than last year on health care. We don’t believe this number and neither does the public.

Health care costs have been rising steadily for the last 15 years at least and there is no reason to think this will not be the case this year as well. The numbers are not realistic.

One of the ways the minister has reduced his budget has been to simply leave projects off the books even if they are happening anyway. The government has promised to reopen the Thomson Centre in October of this year but there is no money in the budget for it — no money for construction, no money for staff, and no money for operating the facility.

We know the minister is under pressure from the Premier to lower costs to ensure the government doesn’t run a deficit for two years in a row, but we know this project has to be paid for somehow.

How much will it cost to operate this facility and why was that number left out of the budget?

Hon. Mr. Hart: For the member opposite, I thank him for the question. Does this government intend to provide health services to all Yukoners? We are in that process. We’re doing this through the development of the Dawson and Watson Lake hospital facilities to improve health care facilities for those citizens in those regions with the intent of reducing the pressure on the Whitehorse — Yukon Hospital Corporation, which is currently working at maximum pretty much most of the year.

As such, we also are working with the Hospital Corporation on the facility across the way — a new residence for visit-

ing physicians who come to the Yukon to provide those valuable services to all Yukoners ensuring that we get the best, valuable service that’s available and have them done here in the Yukon. That facility is deemed to be very necessary, because it does provide adequate facilities for the specialists coming in to the Yukon, and we are very pleased to see that facility is coming along. It’s on schedule and on time, and we anticipate the usage of that facility to be wrapped up later this fall.

Mr. Mitchell: All interesting, Mr. Speaker, but not an answer to the question that was asked. Mr. Speaker, a new website for the hospital says the capital costs alone to upgrade the Thomson Centre are \$2 million. Again, just like the cost to operate the building, there is no money in the budget to actually build it. Perhaps a decision has been made by this government to move the capital costs off the main estimates, off the main books and have the Yukon Hospital Corporation borrow more money to build it. Perhaps the minister simply forgot to put this \$2 million in the budget, or perhaps the minister, who is under some pressure from the Premier to lower costs, was told to leave it out all together. Can the minister tell the House where the \$2 million to do this work is coming from and who is paying for it? The Hospital Corporation or the Department of Health and Social Services?

Hon. Mr. Hart: We are working with the Yukon Hospital Corporation on the Thomson Centre facility. As I mentioned earlier, a study was done on the Thomson Centre. It was completed last year, and it was felt that the best use for that facility was as a continuing care facility and that the hospital couldn’t use it for any extension of its needs to move it over. As such, we have taken on the Thomson Centre for extension of a pod as was indicated, to provide continuing and long-term care facilities for all Yukoners here in the Yukon.

We are working with the Yukon Hospital Corporation on the estimates, with the consultant on a design, dealing with the construction costs, dealing with what needs to be completed, as far as each individual room goes, what’s required to meet the new code for a long-term continuing care. We are in that process right now. We anticipate getting the finalization of that information. We hope to have an RFP out later on in May, with completion of that work to be over the summer and into the fall.

Mr. Mitchell: The announcement on reopening the Thomson Centre was made long before the 2010-11 budgets were tabled, yet we don’t see the money in it to do this. This government has off-loaded the responsibility for capital projects in the health care field to the Yukon Hospital Corporation. This has allowed the government to move some \$67 million in borrowing off of the main estimates, and it makes the budget, as presented in this House, look a lot rosier than it really is. It is also said health care costs will be \$18 million less than last year. Nobody trusts that number, just like nobody trusts this government. Now, as we head toward an election, the government is busy saying the Thomson Centre will be open in October of this year, just like they did in the lead up to the last election in 2006, four long years ago.

It has announced the project, but it hasn’t bothered to put any money in place to complete it or to operate the facility once

it opens. What is the estimated cost of operating the new facility, why is there no money in the budget to pay for it, and who is going to pay for it?

Hon. Mr. Fentie: Once again, the Leader of the Official Opposition has made reference to the fact that the figures in the budgets — whether it be this budget for 2010-11 or past budgets — have been presented in a manner that creates a rosier picture than is in fact reality. Let me caution the member on what he's saying. He's suggesting that all public accounts over the last seven years — the numbers in those public accounts vis-à-vis the budgets that create those public accounts and all expenditures that go forward in a fiscal year — have been presented in a manner that does not reflect fact. Now he's questioning the Auditor General's audit and review of the Yukon government's books. The member is also questioning the integrity and the credibility of Finance officials and all the officials in departments who have the responsibility for finances for each department in that they would present numbers that in fact are presenting a picture that is not in fact reality.

The member should stand up and admit his mistake, correct the record, and apologize to all of those hard-working, committed professionals who would do no such thing.

Question re: State of the environment report

Mr. Fairclough: I'm hoping that the current Environment minister will be able to accomplish something that his predecessors failed to do. Four different Yukon Party ministers haven't managed to table the state of the environment report on time, as required by Yukon law. During the last sitting, the former Environment minister said that the report was, and I quote: "very much on track and we will be tabling those reports in due time".

Given that much of the work has already been done for him, when will this minister produce the long overdue state of the environment report?

Hon. Mr. Edzerza: As the member just stated, it will be presented in due time.

Mr. Fairclough: Well, Mr. Speaker, that member is falling right into the Yukon Party trap. It's about integrity. When that member was in opposition —

Speaker's statement

Speaker: Order. Did I hear the honourable member question the integrity of another member? That's the way the Chair is hearing it, so be careful that it is the situation, not the individual, please.

You have the floor.

Mr. Fairclough: When the member was in opposition, he asked the Environment minister of the day, and I quote: "Does the minister believe this report is very valuable and does he agree it should be completed and put forward as soon as possible?"

Yukoners already know that when this minister crossed the floor, the Environment priorities he had didn't come with him. For example, before he moved, he wanted, and I quote: "permanent protection for McIntyre Creek." When asked how he

would act on that commitment now that he's Environment minister, he said that he wouldn't.

Does the minister still feel the report should be put forward as soon as possible or has he changed his mind, like he did with McIntyre Creek?

Hon. Mr. Edzerza: For the record, I would like to state that this minister does not live in the past; I live in the present. I will also state that, yes, it will be presented in due time.

Mr. Fairclough: Well, they haven't been able to follow the law, as it was required to be tabled in this House. The Environment minister received his surprise appointment to the Environment portfolio more than two months ago, but it's hard to see what he has accomplished in that time. He hasn't taken action on McIntyre Creek, and he doesn't intend to. He can't tell Yukoners anything about his government's plan for the Peel watershed, or he isn't allowed to, and he hasn't produced a state of the environment report.

As far as Yukoners can tell, all the minister has accomplished is moving into his new office. So when will this minister start carrying out the responsibilities of his office? Or like the last Environment minister, does he not run his department at all?

Hon. Mr. Edzerza: Well, Mr. Speaker, the member opposite seems to have pretty good recollection of history and the member opposite may want to go back to 1998 when that member was the Environment minister — which to date, the report has never been tabled and we're still looking for it, Mr. Speaker. I can guarantee that this environment report will be tabled in the near future.

Question re: McIntyre Creek protection

Mr. Cardiff: Mr. Speaker, on the first day of this sitting, the MLA for McIntyre-Takhini, the new Minister of Environment long known as an advocate to protect McIntyre Creek gave his mea culpa. "When I raised those questions," he said, "I did it as an Independent member." Mr. Speaker, that statement is incorrect. He was a New Democrat, voted in by his constituents as a New Democrat, a part of a New Democrat caucus, representing New Democrats, and his name, motions, questions, letters and newsletters appeared showing his support for protecting McIntyre Creek. I would like to give the minister a chance to correct the record and explain how his point of view has changed since changing parties.

Hon. Mr. Edzerza: Well, Mr. Speaker, my point of view has never changed from day one. I do believe in looking after the environment. If I made a mistake on dates or whatever on the floor of this Legislative Assembly, I will apologize for that. Otherwise, I will continue on in my role as the minister and do my job with the environment. Thank you.

Mr. Cardiff: Mr. Speaker, as well, as a New Democrat, the minister wrote this in a constituency letter, which I've tabled: "I continue to advocate for the protection of McIntyre Creek. I think this watershed should be turned into a park and I've met many Yukoners who agree."

Mr. Speaker, as a New Democrat, he wrote to the Kwanlin Dun leadership urging them to support a proposal from the Friends of McIntyre Creek that would seek permanent protec-

tion for the area. He attended meetings with Friends of McIntyre Creek. He was an advocate to protect this area and as a colleague, it was one of the issues dearest to him, and I can attest to that.

Will the minister inform many Yukoners he met as a New Democrat why his position on protecting McIntyre Creek has changed?

Hon. Mr. Edzerza: I thank the member opposite for reciting how seriously I take my job as an MLA for McIntyre-Takhini — which I do. I take everything very seriously. Whether I was in as an Independent or whether I was with the Green Party or whatever, I would take my job seriously. As a member of the Yukon Party, which I'm proud to be, I will do my very best to be able to work with my constituents.

I want to say for the record that yes, I did contact Kwanlin Dun. But, to date, I have had no response from Kwanlin Dun, and they have not returned any of the written information that I sent to them. So, I have done my work as the MLA. I cannot force any other government to do anything that is against their wishes. If Kwanlin Dun was thoroughly interested in what's happening with the McIntyre Creek area, I would believe they would have already been very vocal and present.

Mr. Cardiff: Well, the member's passion for this issue while he was a New Democrat has waned. In fact, since joining the government side, the minister's position on McIntyre Creek has become very passive. He now refrains from taking a position other than letting other levels of government decide.

Just a year ago, though, as a New Democrat, his position was much different. In fact, he worked to persuade the Elders Council of Kwanlin Dun First Nation to give unanimous consent to a motion to protect and preserve the McIntyre Creek corridor. Although the minister doesn't live in the past, he wrote to the Kwanlin Dun Chief and Council urging them to consider using special management provisions under the self-government agreement in order to, and I quote: "Honour the memory of our ancestors by protecting some of the things that they taught us to treasure and respect."

Has the minister's point of view on McIntyre Creek changed because he now belongs to a party with a different political philosophy?

Hon. Mr. Edzerza: For the record, I might like to state now that maybe I didn't have the support of the leader and my colleague from the New Democrats, because we never, ever met as a team with other governments involved with this issue. I did it as a lone individual. Again, I want to state for the record that, yes, my beliefs were genuine and they still are today. I have no reason to change anything that's within my train of thought and I don't intend to.

If there's a request from the interested parties to the government with regard to McIntyre Creek, of course the government would have to entertain whatever the request may be.

Question re: Lake Laberge zoning

Mr. Cathers: The Ibox Valley Local Advisory Council proposed an amendment to reduce minimum lot size and allow owners of large residential lots to subdivide. That change was supported by the majority of my constituents who provided their views to their LAC. Deep Creek residents are still waiting

for their draft zoning regulations to be approved, as demonstrated by the letter the minister received from 29 property owners and e-mails from other residents.

Yesterday I reminded the minister that, as of late summer 2009, both initiatives were on track to be in front of Cabinet by the end of the year. Both targets were missed. Yesterday he assured me these files are priorities but, unfortunately, did not provide timelines. I'll give him an opportunity to correct that today.

What are the current target dates of completion of the Ibox Valley and Deep Creek zoning initiatives?

Hon. Mr. Rouble: I appreciate the question coming from the Independent Member for Lake Laberge. Indeed, there were a number of files that were not finished; there's still work to be done on them. They include the Ibox Valley plan, the Deep Creek regulations, Fox Lake area regulations, and also Hot Springs Road issues.

There were a number of issues that still require attention. This government is providing attention to those, and I am meeting on a regular basis with the Department of Energy, Mines and Resources, which is responsible for these areas, and we expect to see them concluded in the near future.

Mr. Cathers: When the Land Planning branch became part of the Department of Energy, Mines and Resources a year ago this month, the objective was to improve the ability of the Yukon government to deliver effective and timely land services, including an enhanced focus on developing local area plans for unincorporated communities and rural areas. As part of improving speed of service, timelines were set for priority land planning initiatives. When I was the Minister of Energy, Mines and Resources, these timelines were shared with the public upon request. When the Member for Porter Creek Centre was the minister, he provided those target dates when asked. I ask the current minister what the current target completion dates are for the amendment to the Ibox zoning regulations and approval of the Deep Creek zoning regulations. Yesterday and again today, he assured me the files are priorities, but he has not provided timelines. I will give him yet another opportunity to correct that. What are the current target dates for completion of the Ibox Valley and Deep Creek zoning initiatives?

Hon. Mr. Rouble: Mr. Speaker, I appreciate the question coming from the Independent member. I do agree there were a number of files that were half done when he chose not to continue to work on them. It's curious that there are other files that he has not included in his list. There are constituents who call me and ask me how come progress wasn't made on other issues. Again, for the member opposite, I've taken the issue seriously. I've discussed it with the department. I've made a commitment to him to address this in due course through the appropriate procedures and working with the affected constituents. There are a number of other issues regarding land planning throughout the area, not only in the riding of Laberge, and this government will give strong consideration to all of those issues as well. This is not to say that we will ignore Lake Laberge, but it will, of course, receive the attention that apparently is required on many files.

Mr. Cathers: I would remind the minister again: as of late summer, the initiatives I've mentioned were on track with target dates to have them completed and before Cabinet by the end of the year. Somehow, it seems that this has not been followed up on, and other land planning initiatives — don't worry, I'll get to more on the list for the minister — another land planning initiative delayed significantly beyond the timeline identified for it is development of a local area plan for south Fox Lake.

The first public meeting to start developing a south Fox Lake local area plan was scheduled to be held last fall. A meeting was never held and no indication has been given when one will take place. I wrote to the minister and asked him when the first public meeting would be held. His reply seemed to suggest that this issue might be put on a back burner. I hope this is not the case, so I will again ask the minister to state clearly today: has he given direction to take development of a Fox Lake local area plan off the priority list? And if not, when will a public meeting be held to start the plan?

Hon. Mr. Rouble: I appreciate that there are a number of issues regarding land planning throughout the territory. I can assure all members here that this minister will give due consideration and attention to all of the issues. We don't play favourites with the issues we choose to address. We'll take a look at all of the issues that come in.

Now, I have corresponded with the member about the Deep Creek area development regulations and about the Fox Lake local area plan. There is additional work that has to be done. We do have to work with the affected First Nations in all of the areas that we do land planning in. There are a number of other areas in the territory that also require land planning issues. The Department of Energy, Mines and Resources will continue to provide appropriate attention to all of these issues, work through them, and work with the constituents and the partners involved in order to provide more clarity and certainly for all Yukoners.

Question re: Mayo B project

Mr. McRobb: Yesterday, the Premier avoided answering questions shedding light on his secret parallel negotiating process to sell out Yukon's energy future. He was too busy taking credit for his translation of comments from the YEC president regarding his use of over-inflated numbers that glorified the Mayo B project. The Premier used these inflated numbers in his Budget Address to Yukoners and on several other occasions, as did at least one of his other colleagues. It was clear from the president's testimony, the Premier used numbers that were obsolete and had been revised lower months before. Why did the Premier choose to use the obsolete numbers that were outdated months before the budget speech?

Hon. Mr. Fentie: I guess one would expect this type of interpretation from the Member for Kluane for whatever matter is brought before the House — whether by tabling of documents, the budget, or witnesses and what they say. I think the witness was very clear. In fact, the witness said these were the numbers being used, but over time, as they developed and evolved, the numbers do get refined.

Of course, the government presented to the public what was already in the public domain, and the Energy Corporation was very astute in developing the business case for Mayo B. That's essentially why the federal government, after doing due diligence, invested the level of monies, the fiscal resources, toward the project, some \$71 million.

Mr. McRobb: Before we examine what the YEC president put on the record Monday afternoon, let's be clear about what numbers are at issue here. The Premier's budget speech said Mayo B would save \$20 million in diesel cost, starting in the year 2012; therefore, the question is crystal clear: what are Mayo B diesel cost savings in 2012?

Let's also put on record what the issue is not: the total diesel forecast in 2012 without Mayo B. But that's how this Premier is trying to redefine the issue. We know Mayo B can only displace a fraction of the forecast total. Even so, the forecast total is \$5 million below the Premier's number.

Again, why did the Premier choose to use the obsolete numbers, which were outdated months before the budget speech?

Hon. Mr. Fentie: Mr. Speaker, now that we're talking about things that are obsolete, I would submit to the House that it is the Member for Kluane's script that is obsolete. In fact, the witness was clear, as the member puts it, "crystal clear" in the fact that the values as presented, all-inclusive, were indeed right.

Mr. McRobb: Mr. Speaker, you know, it is really stunning to realize it was this same Premier who tried to sell out Yukon's energy future to a private company from Alberta when he doesn't understand the difference between a total diesel forecast and the offset portion of that forecast projected to be saved by Mayo B. The Premier remains in a hard denial despite the evidence, and his colleagues are right there behind him. They are all in together, Mr. Speaker. It is the same old story: deny, deny, deny until the day you die. It is no wonder people have lost trust in this government.

One last time: why did the Premier choose to use the obsolete numbers, which were outdated months before the budget speech?

Hon. Mr. Fentie: The government side need not question a witness's statements and evidence brought before the House, including the members opposite whose very own evidence shows there was no sale of assets.

But the member mentioned that the government side is in it together. Yeah, we are in it together, Mr. Speaker, and have been for some seven years. That's why the quality of life in the Yukon Territory has improved, and we've all been together on that. That's why we have made significant investments in our tourism and arts and culture sectors. We've done that together. That's why that area has improved. That's why together we have invested in health care and have provided better access and more improved services to Yukoners — for example, knee surgeries are done here in the Yukon now. We've been all in that together. Correctional reform, addressing the issues in an archaic corrections system and addressing justice to better meet the needs of Yukoners of today and tomorrow — yes, we're all in that together. The government side, the Yukon Party mem-

bers, are together in building a better and brighter future for the Yukon.

Question re: Yukon Energy Corporation/ATCO

Mr. McRobb: Let's turn now to the Premier's denials from yesterday's questions about his secret parallel negotiating process to sell out Yukon's energy future to private interests from Alberta. He denied there was a gag order in effect, yet the Yukon Energy Corporation president stated on record the following: "I cannot give details of any of the options because I signed a confidentiality agreement."

He further said: "I can't, under the terms of the confidentiality agreement I signed, provide details."

Yet the Premier denied there were any gag orders. This government is stuck in denial. Let's approach this question from a different angle. Can the Premier confirm or deny these gag orders were put in place at the request of the private company from Alberta?

Hon. Mr. Fentie: Well, having not been part of those discussions, Mr. Speaker, it would be difficult for me to give any detail in that regard. But as I understand it, and most people who have been involved in any matter such as this with the corporate community — this is pretty standard practice. This is between corporations and individuals involved in discussions. So, the member is referencing this as a "gag order." I think that's an affront to the professional people who are involved in matters such as these. It's an affront to Yukon's corporate community. It's an affront to the witness and our president of the Energy Corporation. It's an affront to human intelligence.

Mr. McRobb: Mr. Speaker, I agree these gag orders are an affront to Yukoners, but it's the same old story: deny, deny, deny. Yesterday the Premier denied his end-runs around two of his ministers with energy-related portfolios. The evidence on public record has revealed the Premier required certain officials to keep their activities on this file secret from the ministers to whom they report. One of these former ministers spilled the beans when he resigned his portfolio and crossed the floor. The evidence is there.

The other still backs the Premier, although he lost his portfolio to the Premier himself.

Does the Premier believe the practice of circumventing the authority of a minister, and requiring a minister's officials to keep their activities secret from their minister, is consistent with being an open, accountable and transparent government?

Hon. Mr. Fentie: There is no reasonable, rational answer to that question because, quite frankly, it's nonsense. Speaking of denying —

Unparliamentary language

Speaker: Order please. The term "nonsense" is not an appropriate term to use in the context of the member's question, because I think it reflects — it's a personal comment as opposed to a more broader-based comment, so the Hon. Premier, just keep that in mind. You have the floor.

Hon. Mr. Fentie: Thank you, Mr. Speaker. Speaking of denying, all information evidence, including the witness before this House two days ago — the member suggests that

we used incorrect numbers or inflated numbers, even. The evidence by the witness shows that not to be the case.

The Member for Kluane denies that fact. The Member for Kluane continues to suggest secret negotiations took place. All evidence presented — even the witness who was here in the House two days ago — made that very clear. The Member for Kluane continues to deny that fact. It goes on.

The Member for Kluane suggested that there were negotiations. Again, all evidence, information — and even including the witness of two days ago before the House — made that clear that no, there were no negotiations; there were discussions. The Member for Kluane denies that fact. We're speaking of denial here. The Member for Kluane insists that there has been a sale of assets — we all know that not to be the case. The Member for Kluane denies that fact.

Mr. McRobb: The Premier denied several other matters yesterday, despite the evidence on the public record. He denied being involved in the negotiations, despite his own letter to ATCO, despite his private meetings with ATCO, despite reportedly telling officials he was approaching ATCO for Mayo B money, despite taking credit for ATCO's proposal, and despite actually being the one who briefed Yukon Energy Corporation on the ATCO proposal. He denied the negotiations went beyond rationalization, despite testimony from officials and the evidence itself, which provided details of merged ownership and management of Yukon's energy assets.

Yukoners demand good governance. Is there not anyone sitting in the Yukon Party benches who is willing to stand up for Yukoners' interests, or are they all still in this together?

Hon. Mr. Fentie: Well, I think the issue that we're really dealing with here today is this: the Member for Kluane continues to deny the facts, all the evidence, all the information and the witnesses' presentations. Despite all that, the Member for Kluane continues to deny the facts. Nothing more can be said about that.

But as far as "all in this together" — yes, the government is collectively together on investing in Yukon's hydro infrastructure, as we had recently in the first phase of Mayo B. Of course, we're in it together. It's a benefit to Yukoners. It's providing something that should have been done a long time ago — a connection of our hydro grid. It's adding more hydro to that grid. It has allowed for industrial customers, like the Minto mine, to come on to the grid. Yes, we're in that together. It makes sense for Yukoners. It's investing today in infrastructure that not only benefits the Yukoners of today, but will contribute to benefit Yukoners long into the future. We are in it together.

Speaker: The time for Question of Period has now elapsed. We'll proceed to Orders of the Day.

Some Hon. Member: (Inaudible)

INTRODUCTION OF VISITORS

Mr. Nordick: Mr. Speaker, if I could get all my colleagues' help to recognize another citizen from the Klondike, Bill Bowie in the Assembly today.

Applause

ORDERS OF THE DAY

OPPOSITION PRIVATE MEMBERS' BUSINESS

MOTIONS OTHER THAN GOVERNMENT MOTIONS

Motion No. 992

Clerk: Motion No. 992, standing in the name of Mr. Cardiff.

Speaker: It is moved by the Member for Mount Lorne THAT this House urges the Yukon government to introduce amendments to Yukon's *Quartz Mining Act* and Yukon's *Placer Mining Act* to bring them into harmony with the values of today's society concerning the critical issues of:

(1) conflicts inherent in surface rights versus mining rights within the mineral tenure system and security of investment, or free-entry staking, particular within municipal boundaries;

(2) prioritization of land claim settlements in disputes around mineral staking; and

(3) maintenance of the mineral industry's contribution to Yukon's economy.

Mr. Cardiff: It is with great pleasure that I rise today to discuss what I consider to be a very important issue. I'd like to begin by saying that I know it could be awfully tempting for some members in the Legislative Assembly to suggest during today's debate on this motion that Yukon New Democrats do not support business or mining. But in the hope of avoiding that sort of misinformation this afternoon, instead of having a constructive debate about a number of complex issues, I'd like to begin by taking a few moments to remind the House that this May will mark the 25th anniversary of the Yukon New Democrats forming government in the Yukon for the first time. Over three different terms — 1985 to 1989; 1989 to 1993; 1996 to 2000 — three Yukon New Democratic governments created lasting economic benefits for Yukoners and Yukon businesses.

I know, for instance, that the Premier will have little difficulty remembering the strong economic strategy of the Yukon New Democrats during those years in government, resulting in such ongoing benefits to Yukon industry such as the tourism marketing fund, the trade development fund the small business investment tax credit, the rural road upgrade fund, the transfer of power generation assets from the Northern Canada Power Commission and the establishment of the Yukon Energy Corporation, the transfer of the management of oil and gas resources from Indian and Northern Affairs Canada and the passing of the Yukon *Oil and Gas Act*, which led to territory's first land sale in over 20 years.

I'd also like to remind the Premier and his government about the Yukon New Democrat government's creation of the Yukon mining incentive program, one of the primary support mechanisms through which this current government supports the growth of the mining industry in the Yukon today.

My goal in bringing forward this motion is to encourage this government to amend the Yukon *Quartz Mining Act* and the Yukon *Placer Mining Act*. It demonstrates that Yukon New Democratic members in this House are still committed to providing new opportunities for the growth of a progressive and

environmentally responsible mining industry, a Yukon industry that demonstrates a world-class, best-practices approach.

It is my intention today to describe how the current free-entry system is outdated and why it compromises the values of today's society, as has been described in Motion No. 992.

I'll provide a brief general overview of the current free-entry system and following that brief outline only a few of the constraints of the current system as they relate to each of the three critical issues described in the motion. I want to be sure to give all other members in this Legislative Assembly sufficient time to be heard here today, and I'm very much looking forward to hearing their contributions on this debate.

For the purposes of background to this debate, I suggest to the members that the law of free entry is based now on the following premises: (1) mining prevails over private property rights; (2) mining is the highest and best use of Crown lands; (3) all Crown lands are open for staking and mineral exploration unless they are expressly excluded or withdrawn by statute.

Mining prevails over aboriginal land rights. Mineral tenures are appropriately granted on a first-come, first-served basis, and mineral potential is so valuable that it warrants leaving the staked areas essentially unregulated and potentially unusable for other resource interests.

The system as it is now precludes any sort of land planning process, which I believe is something that Yukoners have expressed very passionately and succinctly is very important, and I believe that this government supports land planning. They may not be moving forward on it, as we heard in Question Period earlier today, as fast as many Yukoners would like to see it happen, but I believe that it is an important issue. The system as it is now — the free-entry system precludes the land use planning processes that we have. Under the free-entry system in the Yukon, a miner stakes a claim and pays a minimal annual fee to obtain unlimited access to explore for minerals on the land. In Yukon, a miner does not require a licence to prospect in order to stake a claim. Any person over the age of 18 has the right, under the Yukon *Quartz Mining Act*, to enter and access private or public lands that may contain minerals, and they may stake a claim. A staked claim in the Yukon is a rectangular parcel of land no larger than 1,500 feet by 1,500 feet. Staking a claim here involves placing two posts and identifying on those posts how much of the claim lies on either side of a straight line between those posts.

The miner then registers the claim at the mining recorder's office for a fee of \$10 per claim and in doing so obtains the right to enter the area claim and to explore for minerals. This right can currently be maintained indefinitely as long as they do \$100 worth of work on the claim annually. The *Quartz Mining Act* does not specify the work that has to be performed except in dollar terms.

If the miner does not complete the representation work in any one year, he has the option of paying a fee of \$100 annually to maintain his right to that claim indefinitely.

All exploration activities have to adhere to the standard operating conditions outlined in the quartz mining land use regulations. These regulations categorize exploration activities

into four classes, according to the activity's potential to cause adverse environmental impacts. Class 1 programs are defined as grassroots exploration with low potential to cause adverse environmental effects and which are completed within one year. Exploration programs that are categorized as class 2, 3 or 4 as outlined in those regulations are assessed under the *Yukon Environmental and Socio-economic Assessment Act*.

In these cases, the YESAA-designated office conducts an assessment of a project proposal by seeking input from Yukon, federal and First Nation governments, interested parties and the public, and then produces an assessment report with recommendations on whether or not the project should proceed as is, proceed with terms and conditions, or not proceed.

The Yukon government decision body for mineral exploration projects is the Department of Energy, Mines and Resources, Mineral Resources branch. It is responsible for issuing a decision document accepting, varying, or rejecting the YESAA recommendations. If a vein or a lode is discovered on a claim, the miner can apply to lease the subsurface of his claim or claims.

Quartz leases are issued for 21 years and can be renewed for another 21 years. To obtain the lease, the miner or the company must perform \$500 worth of work or provide payment in lieu of that work. Once the miner has a lease, he does not have to do the annual work on the claim any more.

The fee for obtaining a lease includes a \$10 application fee and a \$50 rental fee for a 21-year term for 51.65 acres, or 20 hectares or less, and a \$20 rental fee for each acre over the 51.65. The government, and indeed Yukoners, will not collect royalties from staked land unless and until a mine is actually developed. Even if the claims are sold to another prospector or to another exploration company, the government and indeed the taxpayers of the Yukon do not receive any benefit from such transactions, unlike the oil and gas process, which guarantees that licences will be granted and royalties will be collected in a timely way.

Lands exempt from pre-staking include private lands where mineral rights are not owned by the Crown. For instance, First Nation category A settlement lands are exempt, as the First Nations own the subsurface mineral rights on these lands. However, category B settlement lands are not off limits, nor are most private properties in the Yukon as, generally, property owners hold title to the property but it is the Crown that retains the subsurface rights.

I'm sure that members in this Legislative Assembly will remember it was only a few short years ago when I was raising this issue in the Legislative Assembly where constituents in Spruce Hill — a rural country residential subdivision of Whitehorse, which the minister drives by on a regular basis on his way home to the beautiful Southern Lakes riding — had claims staked right in their back yard, and that caused a lot of concern for residents, and indeed for municipalities.

We know that the Association of Yukon Communities is meeting and that municipal governments are going to be discussing these issues this weekend, and they have concerns about allowing this to happen.

Also exempt are the following specific lands outlined in the *Quartz Mining Act* section 14(1), which is land occupied by buildings, land within the immediate vicinity of a dwelling, land valuable for water power purposes — and water is a very important issue, not just for power generation, but indeed for human survival. Water, in this territory and around the world — when we look at what's happening around the world — water is the most valuable resource that we have.

It is essential and it should be a human right for every citizen on the planet. But the free-entry system would say that the first and best use of land is mining.

Other areas that are exempt are land under cultivation, churches and cemeteries and land already lawfully occupied for mining purposes. Other exempt areas are those where the subsurface rights have already been legally withdrawn by ministerial order — for park creation as an example.

So the first critical issue in the motion that we've identified is the conflicts inherent in subsurface rights versus mining rights within the mineral tenure system and the security of investment or the free-entry staking, particularly within municipal boundaries. We believe that the system that we have now is not fair; it is not a balanced way to manage public lands in the territory. It isn't a rational and thoughtful approach. We are now in the 21st century. The premise of the free-entry system — and I'll mention this again later — comes from the 19th century. It can be seen now that the free-entry system encourages companies to stake claims over as much territory as possible, with little investment requirement and little encouragement to take greater advantage of today's advanced geological assessment technology. Technologies have changed in 150 years as well.

The free-entry system today still asserts that miners need access to the entire land base but the reality of new mining sciences encourages greater discrimination in the selection of potential mineral exploration sites.

It was just a few short years ago, as well, when the Peel Watershed Planning Commission began its land use planning process for the region. I believe it was in October 2004 or somewhere around there. Before the commission was established, there were 1,658 active claims in that region.

We can now refer to the planning commission report to learn that a total of 8,460 active quartz claims existed in the planning region as of October 20, 2009. That's a fourfold increase since the commission first noted claims in the region in the spring of 2005.

Now, having these claims staked limited the land planning process. It limited other land values and other land use options that need to be considered for that area under land use planning, and the land use planning process has been agreed to by three levels of government. The land use planning process, which is intended to determine how to best address all land values of the land base, has to consider third party mining rights to the land given under the free-entry system, but it's after the fact.

Even if conservation interests are highlighted early on in the planning process, there was no associated third party right for those values, unless the land had been legally withdrawn or

was already protected in some way, which it wasn't. Once a claim is staked, resource management and land use planning must work around existing mining claims, which are considered to be existing third party interests. This process reaffirms, as a false premise, that the free-entry system is the first and the best use of public land. How is it possible that the public interest is not considered at some point prior to the release of lands for mining or exploration?

Now, as I said earlier, and I have just pointed out, the system that we have now is not fair. It's not a balanced way to manage public lands in the territory, and it is not a rational or a thoughtful approach. That's all we're asking the government to do today — is to look at this and to take a thoughtful and a rational approach to the management of public lands and to take the public interest to heart. There is no point where the public can question whether or not it wants exploration in a specific region. They don't have that right, or they can't question whether exploration can take place for a specific mineral, such as uranium.

It is not responsible governance when the free-entry system does not enable a consideration of what other values that land holds, including conservation, recreation such as the ski trails at Mount McIntyre, and traditional uses, subsistence harvesting, tourism interests and wildlife habitat evaluations before it is allocated to mineral exploration. The free-entry system provides rights in a way that is not possible under other systems that grant resource tenure. To receive rights to commercial timber or oil and gas, for example, governments decide whether or not and where tenures are granted before issuing those rights. For example, once miners obtain the initial exploration rights and if they discover a potential deposit, they are given further rights to mineral leases simply by paying the required fee. Although the *Yukon Environmental and Socio-economic Assessment Act* process enables the assessment and mitigation of the environmental impacts of some of the exploration activities, the critical and important question of whether or not mining or exploration in a specific location is the best use of land is given its full range of other values for other people. It's not addressed before the free-entry system provides rights to the land for mining.

The initial rights obtained can lead to more extensive mineral exploration and eventually to a mine without the critical questions of whether or not mining is the best use of that area or whether mining should occur on the landscape even being addressed. The issue of staking on private land has already led to many conflicts in other jurisdictions, and it's leading to increased conflicts here in the Yukon — conflicts on the Dome Road in Dawson between a proposed residential subdivision and a proposed placer mining operation. As one media report about this conflict noted, there are noise and safety issues. There are property value issues that need to be considered. The current system is not conducive to resolving conflicts between mining interests and public interests, and the government needs to take a look at that.

We've heard of other conflicts in communities as I've pointed out — staking in the backyards of residents in Spruce

Hill, mills being erected almost right smack in the middle of small communities.

There are environmental issues that are still relatively new to us, and we're still gaining the perspective and the knowledge to address these issues. Quite frankly, 150 years ago, I don't believe that we had those perspectives. I don't think we had the knowledge to address those issues, but we've become a much more sophisticated society — much more knowledgeable, much more concerned. Around the world, and most definitely here in the Yukon, we've become way more enlightened about the impacts that we, as humans, and our activities, have on the landscape. I believe that people want — they value that.

The piece of legislation does not provide fair consideration of those values that people now hold dear. It's very clear that the free-entry system compromises environmental protection objectives and it threatens the environmental integrity in a variety of ways. We've seen it right here in the Yukon — planning in the Tombstone Park, planning in the Peel River watershed and planning in the McIntyre Creek corridor.

We all know there have been surveys done. People have spoken out on this issue, including the Member for McIntyre-Takhini, about how Yukoners feel about this problem. The Yukon Chapter of the Canadian Parks and Wilderness Society conducted a comprehensive survey in 2009 of the attitudes of Yukoners on the environment and the Peel watershed. Five hundred and eight Yukoners were randomly selected and asked a series of questions. One of the questions was on their attitude to free entry, to the free-entry system. Of those surveyed, 64 percent said they believed that making 78 percent of Yukon available to staking mineral claims was too high and 92 percent said the free-entry system should only be allowed in certain parts of the territory — that being 50 percent of the total — and the remaining 42 percent believed that it should not be allowed anywhere in the Peel watershed — 42 percent.

The second piece of the motion speaks to the prioritization of land claim settlements and disputes around mineral staking. Now, I may not have the figures, as of today, but the figures I do have indicate that in January 2008, 79 percent of Yukon was available for mineral exploration by anyone, at any time. The other 21 percent of the Yukon fell within protected areas, or First Nation settlement lands, where the First Nation had the subsurface rights — that's category A land — but only four percent was actually staked, which begs the question: why is so much open to staking?

There are critical wildlife, recreational, spiritual and First Nation values that should not be disrupted because they are equally important to our social and economic well-being. These values need to be considered on an even footing, alongside all other values, rather than having to be considered only after the landscape has been claimed for mineral exploration.

In addition to the mining rights established through the free-entry system, the exploration activity itself has potential environmental impacts. Roads are built to create access and to explore claims. This fragments wildlife habitat and leads to increased hunting pressures and poaching activities where First Nations are living and using the land — and indeed, other Yukoners as well.

Environmental impacts as a result of these kinds of disturbances are unnecessary if the mineral deposits are not found to be economic, which is true with the vast majority of claims that are staked. And since the government has no discretion over the allocation of mineral tenure at this stage — at the staking stage — it cannot choose among the preferred clients to assess alternative means of conducting exploration activities that might have fewer impacts on the environment.

Mr. Speaker, the role of aboriginal peoples in long-term land use planning and decision-making is critical. Recent legal and political developments demonstrate that First Nation governments want to ensure responsible development in their traditional territories or near their communities.

I don't believe that they're against mining or exploration but they want it to be done fairly and they want their issues and their concerns and the values that they place on the land and that their communities place on the land to be considered prior to that land being released.

In addition to the land claims processes, the assertion of aboriginal rights and title is increasingly becoming a tool by which First Nations can ensure that industrial activity in their traditional territories is consistent with aboriginal values and the uses of the land. Canadian constitutional law requires that aboriginal people are meaningfully consulted where alienation or resources on their traditional lands and territories may occur, and in the opinion of some experts it is questionable whether or not the principle of free entry is consistent with aboriginal case law.

I'm not going to go into detail or specific cases to illustrate this, but for members' reference purposes, the legal framework for these issues arises out of a series of cases successfully argued by B.C. First Nations before the Supreme Court of Canada and the B.C. Court of Appeal. It would be *Delgamuukw versus British Columbia* in 1997 and the *Haida Nation versus Weyerhaeuser* in 2002.

The third issue that is identified in the motion is the maintenance of the mineral industry's contribution to the Yukon's economy, which over the Yukon's history has been quite substantial, but it has also created, as we know, some liabilities. We want to ensure that we have the best mining practices here in the Yukon and the best exploration practices, and that all values are considered. I'd like members of the House to recall that the free-entry system of granting mineral tenure was developed back in the gold rush days in the mid-1800s, when governments were actually trying to encourage people to develop a frontier. As I mentioned earlier, we've developed into a much more sophisticated society that is not — I don't believe — against development but I think they are against unregulated development and irresponsible development.

We need to ensure that the systems that are in place for granting tenure to the land for exploration and for mining reflect the values that are currently held by people today. The underlying philosophy back then was that mining was the best use of Crown land. Land values and mining technology have changed, as I said earlier; yet this outdated law remains. Society has changed and as societies have evolved we've changed the laws. We've done it many times in this Legislative Assem-

bly. We did it with the *Human Rights Act*, although much work needs to be done still. We are proposing to do changes to the *Landlord and Tenant Act*. These pieces of legislation are much newer than the piece of legislation that contains the free-entry system.

This is an outdated piece of legislation that needs to be updated. Members on the other side of the House might even want to refer to it as "housekeeping".

Reforms in other jurisdictions are now being undertaken where mining activity continues to flourish. If we want to ensure that we manage our lands and our communities into the future, we must now find a way to bring mining needs into balance with other newly recognized needs, such as clean water, clean air, special management areas protection, protection of First Nation interests, and the protection of private property interests.

Some provinces have either moved away from free entry or have modified it considerably. Elements of these approaches could be used to inform consideration of alternatives to free entry here in the Yukon. For example, in Alberta, Nova Scotia, and Prince Edward Island, they only issue mineral dispositions if the designated minister decides to do so. The fact that the system in these provinces is discretionary does not mean that mineral resources are disposed of unpredictably. The way discretion is exercised can be entirely consistent. A licence or a lease can be granted in every case. The fact remains, though, that the power that is being exercised by that minister is discretionary — that he has the discretion to take those other values that I've described previously into consideration before granting the rights to exploration or mineral development.

In Nova Scotia, the minister can reject or defer an application for an exploration licence, if in the opinion of the minister the acceptance of an application for an exploration licence is not in the best interests of the province. This minister here in the Yukon doesn't have the ability to do that in the legislation.

When Alberta, Saskatchewan and Manitoba acquired control of their mineral resources in 1930, they all adopted the federal regulations with little change. In Saskatchewan and Manitoba, changes have been gradual, the most notable feature being the introduction in both provinces of discretionary exploration permits for large areas — discretionary.

New Brunswick does not guarantee mineral leases. The minister can deny a lease, pending the approval of a program for the protection, reclamation, or rehabilitation of the environment.

Newfoundland prohibits a person from prospecting, exploring for minerals, or staking claims on Crown land without the consent of the minister. Its *Mining Act* also makes financial assurance mandatory.

Manitoba's *Mines and Minerals Act* contains a number of modern provisions that make it progressive relative to many other jurisdictions, notably that a miner must obtain consent from the surface rights owner or the occupant if he wishes to explore for Crown minerals on privately held land.

One of the important things is that these are Crown minerals. These minerals belong to the citizens of the territory or the citizens of Canada or the citizens of a jurisdiction. They don't

belong to anybody else. We're granting them the right, with discretion, to explore for them and indeed mine them. The public needs to have some security and some confidence that it's going to be done responsibly and that we're going to receive something of value back.

As I said, mining in Manitoba must be conducted consistent with the principle of sustainable development, which is defined and elaborated upon at the very beginning of that act — that's the Manitoba *Mines and Minerals Act*. Where disputes occur, the province's mining board has the authority to hold public hearings and, in some cases, Manitoba's *Planning Act* can prevail over the mineral laws. That's not the case with the free-entry system.

The Yukon is more and more under the scrutiny of the world's major mining industry participants, and this government must stay at the front of legislative reform if we're going to support a competitive environment at an international level for the mining industry. I believe that we can do that. We want to have a world-class, competitive mining industry that respects land values and the values that Yukoners hold dear — all values that are placed on the land, not just that the first and best use of land in the Yukon is mining.

In closing, the Yukon public is becoming increasingly aware of the environmental and the social impacts of large-scale industrial developments. The free-entry system may have made more sense back in the 19th century when there were relatively few other uses for the land and when much of the mining occurred far away from where humans were settled. In the 21st century, conditions have changed, dramatically but the free-entry laws have not changed and the time has come for the government to ensure that the laws of this territory reflect the changing times and the conditions in our communities.

The situation today is that the free-entry system is creating unnecessary conflicts between miners and other users of the lands and especially within the boundaries of municipalities — specifically, recently in Whitehorse and Dawson City.

According to a discussion paper that was done in 2004 by West Coast Environmental Law that was entitled, "Undermining Our Future: How Mining's Privileged Access to Land Harms People and the Environment", the free-entry staking process does not allow for the consideration of factors other than the right to mine when considering mine exploration. It thwarts sensible land use planning and elevates one form of industry — mining — to a forum of extraordinary privilege. It interferes with the exercise of aboriginal title and rights and the exercise of individual property rights.

There is an immediate need to reduce the perception and the reality of the privileged access to lands the mining industry receives today. I don't believe that's going to hinder the industry. The industry can still thrive. They want certainty too. Our discussions this afternoon should lead to major changes in the free-entry staking process. I know there are other opinions. There are better ways of handing out rights to explore for minerals, and I've identified some of those. The Yukon's mining industry does contribute substantially to the territory's future.

I'd like to say it one more time: the system that we have now is not fair and it's not balanced. It's not the way to manage

public lands in the territory. It's not rational and it's not thoughtful. I would encourage the minister to look at some of the more rational and thoughtful approaches that I've outlined in other jurisdictions. That's what I'm looking for today. I'm looking for a constructive debate. I would like to encourage other members in this debate to come together here in the House today and support this motion. I know that we can do that; I know we can be assured of supporting the development of a progressive and environmentally responsible mining industry for the betterment of Yukon's future. Thank you, Mr. Speaker.

Hon. Mr. Rouble: Mr. Speaker, it's my honour and pleasure to rise today to debate the motion put forward by the Member for Mount Lorne, and I, too, look forward to a constructive debate.

The member opposite is very correct in his introductory comments where he identified that this was a complex issue — one that is interwoven with a number of different issues, one that is compounded in its complexity by history, practice and legislation not only here in Yukon but also in other jurisdictions in Canada, and indeed around the world.

The mineral resource industry is a global one and while different politicians recognize the borders, the geology certainly doesn't. Mineral companies will go where the resources are and they will go where they can work with the local people in order to responsibly extract them and then take them to market. It was said at a recent Prospectors and Developers Association conference in Toronto that the hot jurisdictions on the globe right now are Yukon, Colombia and Africa. I certainly know where I'd want to do business. Yukon with its wealth of resources, with its progressive legislation, with its responsible government, with the security and quality of life that we as Yukoners enjoy — I know where I would want to do business out of those options. Also, from an environmental perspective, I would look at those different options and look at the environmental protection activities that are required in each of the jurisdictions.

I can assure all members here that the most responsible type of operation would happen in Yukon. Before we go too much further into this debate, I do want to put a couple of points on the record and make sure that everyone is aware of them, because there has been some confusion about some of these issues — some misunderstandings, and I'd just like to ensure that that's cleared up right from the get-go. I want to assure people that under our current legislation, under the *Placer Mining Act*, staking claims within the boundaries of a city, town or village, as defined by the *Municipal Act*, is prohibited by legislation. So, to make it very clear — I'm sorry —

Some Hon. Member: (Inaudible)

Hon. Mr. Rouble: The Member for Mount Lorne is saying you can stake outside the boundary.

Some Hon. Member: (Inaudible)

Hon. Mr. Rouble: Well, there is the issue of where does one put the boundary line, and that has been an issue with municipalities that have grown and grown or changed their boundaries.

I appreciate the Member for Mount Lorne is tossing additional information into the debate. I took a significant amount of notes during his discussion and I hope I have an opportunity today to put some additional information out there.

One of the key points, though, is to assure people that staking placer claims within a municipality is prohibited and that there are significant criteria on staking claims under the *Quartz Mining Act*. There are two different pieces of legislation, two different kinds of mining and there are indeed levels of protection afforded to Yukoners in both of those acts. I'll go into those in a bit more detail a little bit later.

Mr. Speaker, this is a very complex and interwoven motion that has been presented by the New Democratic Party and it has a number of different issues, concerns and premises with it. First, it's calling on the government to amend legislation to bring the legislation into harmony with the values of today's society. Implicit in that is a thought that the current legislation is not in harmony and is not consistent with the values of today's society. That's certainly a matter for debate and one worth hearing about.

There are a number of different issues here that we all need to be aware of. One of the things that we value in our society is competitive forces between companies, the issue of risk and reward and also the value to our society that these economic opportunities raise for us. I, for one, recognize the significant economic impact that mining industries have on the territory and the benefit that that brings to the territory as a whole. We only have to look back a couple of years ago to the time right before the Yukon Party was elected, where we were seeing about \$6 million a year invested in mineral exploration. That's substantially different from today. There is a great deal more invested each year in this industry and those investments do come in to our transportation companies, to our hotels, to our restaurants, to the airline companies and to the paycheques of Yukoners.

They do get multiplied through many different levels of expenditure and make a significant impact on Yukon's bottom line or Yukon's GDP.

The motion goes on to discuss that there are inherent conflicts and that there are conflicts about free-entry staking. When we discuss land use issues, I would suggest that that's one of the most contentious types of issues out there — that there are conflicts between people who want to have a farm and people who don't want to have a farm; people who want to see a road upgraded or not upgraded.

In my riding, I know that conflicts have been created about putting in playgrounds in neighbourhoods. If we believe that conflict is inherent in many of these different levels of our society, then it's incumbent upon us to put in place appropriate conflict resolution tools — ways that we can work through many of these different and sometimes competing interests — a way of ordering projects and a way of mitigating some of the impacts.

But if we as a society say that we do value something, and we value something else, too, and they're in conflict, what can we do to mitigate or lessen one project on to another? That's an important point that we'll come back to more and more over

the course of the afternoon about what can we do in order to mitigate some of the effects of staking, and then also of the regulated activities that could then take place on some of these claims.

The motion goes on to discuss the issue of staking within municipal boundaries, and indeed that does add a very significant layer of complexity to the issue. As I have reminded members, our current *Placer Mining Act* prohibits staking within municipalities. However, that does not alleviate the challenge of dealing with historic claims. There are placer claims in some communities that have been there for literally decades, if not for over a hundred years. Those third party interests are a responsibility that we have to address and that the responsible orders of government also have to address.

I was reminded from the Klondike Placer Miners Association recently that when we saw the changes — I believe it was 1987 — to the boundaries of Dawson City, when Dawson expanded its boundaries and then it started to include additional placer claims, that many people at the time had discussed the issues and some of the implications. It was well understood, I understand, that should a claim go out of good standing, that area would then be within the municipal boundaries and no longer permitted to be claimed.

However, there was recognition that there was a responsibility to continue to work with the due processes and appropriate channels to address the interests of placer miners in that community, which has literally been built on a bedrock of mining exploration.

The motion then goes on to address a concern regarding land claim settlements and disputes around mineral staking, and that is a significant issue that we have in the territory. One of the strengths of the territory that we have is the significant progress that Yukon First Nations have made on having self-government agreements and land claim settlements recognized. There has been literally decades of work and thousands of hours, thousands of discussions, many emotionally involved discussions, to bring many of these agreements to conclusion.

There was a significant amount of clarity that was provided to Yukon, to those wishing to do business in Yukon and to Yukon self-governing First Nations from those agreements. There certainly is recognition about the different types of land, whether they be traditional territory, category A or category B settlement type lands, and the different areas of obligation or responsibility that go along with those.

Also in that process areas were identified where there were likely to be disputes in the future and of course then a dispute reconciliation method was put into place.

The motion then goes on to discuss the mineral industry's contribution to Yukon's economy. I certainly appreciate the NDP's perspective on that and that they, too, value the contribution that this industry has made to Yukon's economy. That isn't to say though that we're not working to build a more diversified economy, but certainly in a diversified economy issues such as mining, forestry or agriculture all play an important role. In addition to expanding opportunities in other areas of the economy such as tourism, education, health and social services, the cultural industries, manufacturing, research and

design. We as a government, I believe, made more progress in helping to diversify different sectors of the economy than any previous government.

When one looks at this government's track record in working with industries as diverse as the recording industry or the film and sound industries or manufacturing industries, one can see that we have worked not only on increasing educational opportunities, but also worked at reducing regulatory barriers. We've increased funding and resources to expand many of these issues, and we'll continue to work to diversify the economy.

That being said, part of a strong, diverse Yukon economy is, of course, the mineral sector and the mining sector. Also in that is the exploration sector. Yukon does see a tremendous amount of investment, whether it's in helicopter time or staking fees or hiring prospectors or putting people on the ground or covering their transportation costs. Yukon does see a tremendous gain and benefit from this type of work.

Yes, we certainly appreciate previous initiatives that other governments have started, like the mining incentive program — and this government has recognized that and valued it. We have seen the improvements it has made in the industry and the effect that it has had on the community and have also increased the investment in that.

The member opposite indicated that this was a significantly complex issue, and I certainly appreciate that. I know the last couple of months, as the minister responsible for Energy, Mines and Resources, have been very enlightening for me. There isn't a day that goes by where I'm not in a position of learning something new or finding out something more about the industry or the department and the work that we do.

In discussing this motion today, I will be putting forward a number of different thoughts and concerns, and shedding some light and providing more information on a number of different issues that have been brought forward. This afternoon, I'll be looking at a brief history of mining and its significant impacts on Yukon I will provide a brief discussion on the free-entry system and how it works and how it does benefit Yukon. I'll provide an examination of the legislation that's on the books today, including a look at the *Quartz Mining Act*, Yukon's *Placer Mining Act* and the development assessment process.

Some Hon. Member: (Inaudible)

Quorum count

Speaker: The Minister of Highways and Public Works, on a point of order.

Hon. Mr. Lang: Mr. Speaker, I don't believe we have a quorum present.

Speaker: Order please. According to Standing Order 3(2), if, at any time during the sitting of the Assembly, the Speaker's attention is drawn to the fact that there does not appear to be a quorum, the Speaker will cause the bells to ring for four minutes and then do a count.

Bells

Speaker: I have shut off the bells and I will now do a count. There are 13 members present. A quorum is present. We will now continue debate.

Hon. Mr. Rouble: Mr. Speaker, as we were discussing this afternoon, I will provide a bit more background on the history of mining and its significant impacts on Yukon, a discussion on the free-entry system and how it works and how it benefits Yukon, provide information on the legislation that is on the books today, including the *Quartz Mining Act* and Yukon's *Placer Mining Act* and that process, provide a discussion about the limitations on staking provided for in our existing legislation, provide more background and information on the rights and responsibilities of a claims holder, and then provide a discussion on the process required to conduct activity on a claim. That'll be an important issue that we discuss.

Earlier, we heard the member opposite characterize some of these issues as being "unregulated" and "wanting to promote or prevent irresponsible development". I certainly want to go over some of the processes that are required in order to conduct an activity on a claim. These include looking at the Yukon environmental socio-economic assessment process, the mining authorization process that's required, water licences, land use permits, as well as the additional other permits or behaviors that are required in order to conduct activities on a claim. We'll also take a look at the municipality in the process, if this is an activity that is taking place within a municipality or looking at how a municipality through a process such as its official community plan, its zoning bylaws, or other activities can either allow or disallow certain activities in the community.

We'll also look at how the municipalities can work with the Government of Yukon through the Department of Energy, Mines and Resources and through the Community Services branch in order to help address some of their concerns. Also, as we have discussed already, there are likely to be disputes regarding a variety of different uses for land. We'll provide a background on the dispute resolution processes available around mineral staking, including taking a look at the Surface Rights Board, its role, responsibility and mandate.

We'll also put some information about the mineral industry's contribution to Yukon's economy on the record and then we'll look at the process that has been established under the devolution agreement for the creation of successor legislation. We'll get into this in a bit more detail when we take a look at the existing legislation we have on our books now — the mirror legislation, if you will, that Yukon put into place when we went through the process of devolution and Yukon became responsible for putting in place legislation that mirrored the federal legislation and also for respecting the obligations that Canada had previously made to others.

We'll also take a look at the process that had been established during the devolution negotiations on how successor legislation — those pieces of legislation to replace the mirror legislation — were to be prepared, whom they were to include, and the process we were obligated to follow in order to address those.

Starting with a bit more context about what mining means in Yukon and how it influences our economy and our community, I think it's important to look at some of the benefits that Yukon currently has.

We are certainly known around the world for our rich resources and Yukon has identified over 2,500 known mineral occurrences and identified over 80 mineral deposits with significant resources.

Yukon contains significant deposits containing gold, silver, copper, tungsten, molybdenum, nickel, lead, zinc, iron and coal. In addition, there is significant potential for undiscovered deposits. That's a key point to underscore in that there is significant potential for undiscovered deposits because, as the Member for Mount Lorne was stating, there are new technologies being introduced, new techniques and new ways of going out and gathering the data.

I know through the work that the Yukon Geological Survey does in Yukon — they do a tremendous amount of work each year providing more information and background on surficial deposits and bedrock structures.

While we do know quite a bit about Yukon geology, there is much, much more to be learned and I am sure many more deposits to discover. We did have a bit of discussion earlier about different techniques that are used for dispositions of land — for example, with forestry. I would just note that when we're dealing with disposition of property for forestry work, for example, we're dealing with a known quantity. But when we're dealing with a mining deposit, it is really hidden from the investigator's eye until a tremendous amount of time, energy and money is invested in identifying the resource. It is not as simple or as straightforward as counting the number of trees or measuring the size of the tree and calculating the potential board feet from a forest or the potential for BTU from a biomass type of project. No, this information isn't known to people unless someone invests a tremendous amount of time, energy and money into discovering it. That is part of the complexity of the mining industry.

That's part of the competitive process between mining companies, and that's part of having a skilled prospector who can find a property and provide some kind of tenure on it so they can then do the due diligence in order to raise the money, in order to provide for additional resources to do the extensive research. There has to be some security for the person doing the expenditure, that they'll have some title to the process to ensure the security of their investment that they need to make in order to identify a potential resource — but I'm getting a bit side-tracked here.

Some of the other advantages of Yukon's mining industry include our physical location and that, from some people's perspective, we seem to be in a very remote area, but I would remind people that Yukon is very accessible. It's very connected. It has almost 5,000 kilometres of all-weather roads, an international airport, as well as many regional airports and many small landing strips. As well, we have access to tidewater through Haines, Skagway and also through Stewart, British Columbia.

We also have the strength of the Alaska Highway and the interest of others looking at developing other transportation

routes. In the past, Yukon has enjoyed rail transportation that has taken ore in concentrate to tidewater, and there are ongoing discussions about opportunities for rail in Yukon in the future. An additional Yukon advantage are the incentives that the Yukon government and many First Nation governments offer to responsible, respectable mineral companies to encourage them to undertake operations in the territory. These include a very strong but well laid out regulatory process and additionally a competitive royalty regime.

Another one of our strengths is the unparalleled data and research. As I mentioned, the Yukon Geological Survey maintains extensive scientific and technical data on the geology, mineral tenure and mineral deposits of the territory. This includes comprehensive, up-to-date databases and interactive mapping tools and the wealth of information and knowledge from the Yukon Geological Survey staff, who work in many different opportunities and capacities to share their knowledge, expertise and information with people in the industry. Whether that's done one on one or through the release of technical journals, or through information sessions at events such as Roundup or the Prospectors and Developers Association of Canada annual meeting, Yukon geologists and those involved in the Yukon Geological Survey are renowned for their professionalism, their wealth of knowledge and their encouragement and enthusiasm for the industry.

Additionally, Mr. Deputy Speaker, Yukon enjoys a very supportive and responsive government. Yukon government controls and administers its natural resources. This is a significant issue in Canada and sets us apart from other jurisdictions. Mining companies and mineral resource companies appreciate that Yukon has a regime including YESAA where decisions are made locally; that since devolution we are not governed under CEAA, the *Canadian Environmental Assessment Act*, but that we have a made-in-Yukon process to address made-in-Yukon issues and concerns.

The industry also fully appreciates the responsive nature of this government that has proactively addressed issues regarding legislation, regarding royalties and making that much more straightforward through investments in programs such as Yukon mining incentive program, through increased expansion of the Yukon Geological Survey.

Also, Mr. Speaker, I can tell members that the mineral industry is also very excited about Yukon's energy strategy, about the investments made in expanding the energy producing capacity throughout the territory, for the connection of the grids and to its responsible approach to looking at increasing electrical generation throughout the territory. Mr. Speaker, look at the other expansions of infrastructure such as the roadwork or bridge work — those industries also appreciate those investments being made as it will certainly make it easier to conduct economically viable operations in the territory.

Just as an aside, Mr. Speaker — I'm sorry, was there a comment from the Member for Mount Lorne? I am trying to respond to many of the issues that the Member for Mount Lorne has brought forward. Excuse me, and I will certainly address many of the issues that were put on the record earlier today.

But it is important to have accurate background information on this issue; unfortunately, I have noticed there has been a — well, a misunderstanding, I guess, is probably the best way to characterize it — about some of the situations or some of the processes in Yukon. That has led to a lot of confusion around this issue, and that type of thing doesn't help anyone.

On the issue, though, of settling confusion, one of the other factors that Yukon can lay claim to is that we have many settled land claims and regulatory certainty and that Yukon is at the forefront of land claims negotiations in Canada with many Yukon First Nations having finalized their land claims. Additionally, mineral rights and tenure rights in these areas provide regulatory certainty to both the Yukon government, the First Nation government and also to industry.

Another strength the Yukon Territory has is that we have significant experts in northern construction. This is a tremendous asset that we have as a territory, that our construction companies, our contractors and suppliers are very familiar with the demands of our territory and are very competent in addressing the issues that we as Yukoners face.

Finally, an additional strength that Yukon has is its skilled labour force. Many businesses quickly discover that our most valuable resource is our people. We are young; the average age in Yukon is about 35.2 with about 60 percent of the working population is under the age of 45. We have a very well-educated population with one of the highest ratios of university degree holders in Canada. The area of expertise of Yukoners is known throughout the world.

Just earlier today I was having a discussion with a Yukoner who works in the mineral industry and he was telling me about coming back from Africa, where he was giving two senior-level talks and providing consultative services to companies over there. So, a strength we have as a territory is the people we have and our expertise.

I should also add here that recent developments, such as the Yukon Mine Training Association, which is a cooperative agreement between industry and Yukon First Nation governments to develop training opportunities for Yukoners, is welcomed throughout the community and is having significant benefits. Both the Government of Yukon and Government of Canada have provided resources to YMTA and we are seeing significant returns on these types of investments.

People are increasing their capacity and their skills and becoming more involved in the economy and in an employment situation. We are seeing a tremendous growth in this sector and seeing young people getting skills, earning their certifications and then becoming employed. It's certainly great to see Yukon's young people coming back and staying in Yukon, rather than being one of our exports to Alberta, British Columbia or Ontario.

So obviously the Yukon has a tremendous number of skills, assets and attributes in this area. The minerals that we have on the ground are one very attractive factor, but also everything else that we have around that, from our people to our transportation to our regulatory processes, are all attracting respectable, responsible companies back to Yukon.

Indeed, we've all heard the announcement from Kinross, one of the largest gold mining companies on the planet, of their interest in property outside of Dawson. Seeing that company coming back to Yukon, coming back to Canada is a strong endorsement of how the industry feels about Yukon, its potential and its opportunities.

Mr. Speaker, there are a couple of different facets to mining in Yukon. We have the issue of quartz mining or underground type of mining and, as well, placer mining. Placer mining generates between \$35 million and \$50 million in economic activity annually. Since the gold rush, over 13 million troy ounces have been mined from Yukon placer deposits, worth about \$5.3 billion on today's market.

In 2004, 163 placer mines produced over 100,000 ounces of crude gold, which is worth about \$43 million. Placer mining and its history continue to be a major tourist attraction in the Yukon and many of our communities are built on the placer industry and on the gold rush, and they continue to be strong economic drivers in our communities.

About 90 to 100 family-owned and operated placer mines are in the Yukon. As we all discussed, when the placer mining industry was threatened a couple of years ago, this Assembly stood in strong support of the industry and in opposition to some of the changes the federal government was imposing. We all recognized the tremendous benefit that this industry has in our community, and we all rallied behind it. Many businesses still have the signs up that say: "This business supports the placer mining industry". I think we often need to be reminded of that, because placer mining employs between 400 and 600 people in the Yukon annually. It has been referred to as a type of "family farm" that keeps the fabric of Yukon together.

Many of the techniques used in modern placer mining really only use water and gravity to recover their gold. Reclamation is mandatory. Additionally, a reclamation plan must be approved before licences are issued. That is an important process, and I will get to that in just a moment.

There seems to be some misunderstanding in some circles that as soon as a claim is staked unregulated and unrestrained activity is permitted. Well, it simply doesn't. There are regulations that have to be followed, processes that have to be adhered to, inspections that are done. It's not a Wild West in today's mining industry and it should be noted that Yukon placer mines lead the world in safe and efficient gold recovery. Just to continue the point, Mr. Speaker, there are stringent standards in place that oblige placer miners to settle out the silt in their discharge water. They have to adhere to conditions in their water-use licences. We do have adaptive management programs in place, and we try to work with the placer miners to ensure that we have responsible environmental regimes in place.

I think many Yukoners are very proud of the activities and practices that Yukon placer miners actually undertake. When people look at the reclamation efforts that have been done to reclaim past placer authorizations — there are many instances — in fact the majority of instances that I'm familiar with — where one would be hard pressed to identify that there has been significant activity there after a number of years.

Just to take another approach, one only has to look at operations like Brewery Creek today and see the tremendous amount of work that has been done there to return it to as natural a state as possible. These activities are done because of the strong standards of our operators, in addition to the regulatory regime that we have in place and the conditions that the Government of Yukon and others put on their activities, and the requirements to have things like reclamation plans in place prior to activity happening, or to have bonds posted to ensure there are the financial resources in place in order to cover these costs.

This discussion has also gone into the area of municipalities and the issue of mining in Whitehorse has been raised. I'd just like to provide a bit more background about the history of mining in Whitehorse, because Yukon's link to mining is not just in the Klondike, but in other communities throughout the territory.

In Whitehorse, the area has a varied and dynamic connection to the mining industry. You might remember that the Whitehorse copper belt runs for about 30 kilometres, and it's just hidden under the hills to the west of the city, and that the copper deposits that are here were identified as early as 1897 by prospectors on the way to Dawson City.

I'm sure many of us are familiar with the hardrock mining operation that ran just on the other side of the Alaska Highway, called the Kopper King. In fact, many of our subdivisions now reflect that heritage, whether it's naming communities after people like William Granger or some of the other individuals who have been involved. It was a strong part of building Whitehorse, and its legacy continues to live on today in many of the roads that were created there or the trails that are now used as ski trails and mountain bike trails. Those trails are certainly enjoyed by many Yukoners, including me.

It is important to note that the Whitehorse area does have a history of mining. It should also be noted that there is a wide diversity of ranges and uses for land within the municipal boundaries. One just has to take a look at the Whitehorse solid-waste facility and the use of the old pit there to see that we in the territory have made as best use as we could of some of the legacies or the impacts from previous mining operations.

And just by way of closing this out, Mr. Speaker, the total value of minerals mined near Whitehorse was almost \$500 million and the certainly had a positive impact on the Whitehorse and Yukon economy.

That is just a bit of a background about mining and its significant impacts on Yukon. The next issue I would like to touch on is the free-entry system: how it works and how it has benefited Yukon.

It had been discussed that this was a way of trying to develop a new frontier, so I'll give the member some credit for that. It is certainly a way of trying to develop additional knowledge, to develop new frontiers, and to develop new opportunities. But I'm going to disagree with the Member for Mount Lorne, where he went on in his discussion about this — that it was in some way tied with unregulated industry and irresponsible development, because I certainly don't agree that the two are linked.

Mineral tenure is granted under the free-entry system in Yukon. This system gives individuals exclusive rights to publicly owned mineral substances from the surface of their claim to an unlimited extension vertically downward from the boundary of the claim or lease. All Commissioner's lands are open for staking and mineral exploration, unless they are expressly excluded or withdrawn by orders-in-council, for example, parks, interim protected lands, or lands that have received protection after their interim protection has been withdrawn, buildings, dwelling houses, cemeteries, agricultural lands and settlement lands — and I'll go into more details regarding the special conditions that the *Placer Mining Act* and the *Quartz Mining Act* put on these exemptions.

This is rooted in the customary laws that have prevailed in parts of medieval Europe and it is recognized that the utility and the value of the free-entry system has evolved with the modernization of the mineral sector. It has certainly changed over time and the industry certainly has matured and the regulation of activities certainly has matured and afforded greater protection to the land and to others.

Free entry enables the continued growth of the mineral industry for two significant reasons: it increases the odds of a discovery and, additionally, it offers the protection of proprietary knowledge — and this is an important aspect in our free market economy.

On the issue of increasing the odds, mineral exploration is the first phase of the mining cycle that can — it's a big if, though — lead to a productive mine. But it is extremely rare that any mineral discoveries advance to become mines. The success rate for exploration is extremely low for grassroots exploration. In fact, according to the statistics, fewer than one in 10,000 mineral showings discovered actually becomes a mine.

So, it's important to note that we have to do an awful lot of grassroots discovery in order to actually get to a productive mine. I'm reminded of the White Gold property in Klondike. Look at the size and shape of that deposit. It's a significant deposit.

The proponent behind the project has released estimates on the size of the deposit, but the portion that pokes out at the top of it — the portion that can actually be walked on and prospected — is very, very small. The actual top of the deposit was found by one soil sample. I understand that when prospectors were researching the area, they conducted a soil sample there and found one anomalous sample and then, based upon the one sample, they conducted further exploration. On the merits of the one sample, they were able to invest additional dollars and resources into looking deeper. Because they had tenure to the property — some sort of security — they were able to make that additional expenditure into exploration in order to prove out whether there was a deposit there or not. If they didn't have that tenure or security that they would be able to keep that deposit that they found, what would be the point of making the investment? That goes hand in hand with the free-entry system.

It is important to encourage the grassroots exploration. That is how we'll find these types of deposits, and we do have significant areas throughout the Yukon that really are undis-

covered and we don't know where many of the mineral deposits lie, and it is because there are people on the ground or in helicopters or doing stream sediment sampling or doing soil lines or other innovative techniques that we actually prove out many of these resources. Now these prospectors are continuing to use the information provided by the Yukon Geological Survey and their own knowledge and also knowledge about other geological formations that are around the world. They're looking for those same types of models here in Yukon. It requires someone to actually be on the ground with a pair of boots on it to stick a shovel in the ground to take a sample and then pay for the assay of that sample in order to prove out a resource.

The other important issue here is the protection of proprietary knowledge. The industry does go out and explore and discover, and they do utilize the scientific knowledge base that I've discussed previously to guide their exploration. But the knowledge they gain as a company is of value. As members know, knowledge — and having facts that other people don't have — is important and can be a tangible matter and one that does assist in the raising of capital in this industry.

Mineral exploration involves significant scientific understanding of geology and extensive research and, most significantly, the development of proprietary knowledge. And as exploration companies expand their proprietary knowledge, innovation is fostered and exploration can advance to new levels of sophistication and refinement.

We see those characteristics every day in this industry, whether it's introducing a new shovelling technique — and believe me, there are advancements in shovelling techniques that have increased the efficiency and the effectiveness of prospectors in this industry — to the use of unmanned aerial vehicles that are being used to overfly certain mineral deposits in order to gain additional technical information about them.

The industry is certainly progressing in its sophistication and its refinement. Also, by focusing public reviews and processes on activities and not just the initial claim, the modern free entry protects the investment in proprietary knowledge and expertise. Also, it should be important to note that the suggestion that free entry somehow allows miners to trample over others' rights or that mining prevails over property rights is patently false.

All that staking a claim does is convey the right to sole benefit from the mines and minerals and limited surface rights to allow access to these rights. It does not displace the rights of the surface owner, any more than the surface owner displaces the rights of miners. The system is a balanced one with ample process to address areas of overlap. And again, I want to emphasize "ample due process". Free entry is simply a system that allows the entrepreneurial spirit to exist, but it in no way reduces anyone else's legitimate rights.

We have several pieces of legislation on our books today that do address, regulate and legislate many of the activities that we're discussing in this motion. These include the *Quartz Mining Act* and Yukon's *Placer Mining Act*. I will start with the *Quartz Mining Act* and discuss it and some of its regulated regulations.

The *Quartz Mining Act* was enacted by the Government of Yukon in 2003 in accordance with the devolution of control and administration of mineral rights from the federal government to the Yukon. As a result, the Government of Yukon has full authority over its resources and is the sole administrator of a stable and direct mining development permitting process.

The *Quartz Mining Act* governs the authority to stake, record and maintain mining claims for the purpose of exploration and/or development. The act also enables the Government of Yukon to issue licences and regulate developments as they proceed from design through to construction, operation, reclamation, decommissioning and, finally, closure.

As the sole administrator of the mine licensing process, Government of Yukon officials can respond with greater local capacity to the unique physical, social and economic settings found within Yukon.

A key purpose of the *Quartz Mining Act* is to encourage prospecting, exploration, staking and development of mineral resources by providing an orderly system of allocation of exclusive rights to minerals. The *Quartz Mining Act* and associated regulations provide detailed guidance on how claims are staked and how exploration and mining activities must be conducted.

The mining tenure process is initiated through claims staking. Just for clarity, Mr. Speaker, a claim is defined as a parcel of land located or granted for hardrock mining. A claim is a rectangular plot of ground that does not exceed 1,500 feet by 1,500 feet and all angles of the claim must be right angles except where a boundary line of a previously located claim is adopted as common to both locations.

Before staking a claim, prospectors are encouraged to reference the relevant maps available at a mining recorder office — these are also available on-line — in order to determine where land is available for staking and where areas have been withdrawn from staking.

The Member for Mount Lorne went over the process of staking a claim in the Yukon and the issues regarding claim tags and the recording process, so I won't go into that. He has also put on record some of the information regarding the work to be done regarding the requirement that \$100 of work be done per claim per year and that where work is not performed, the claimant may make a payment in lieu of work.

From the Member for Mount Lorne's comments earlier, it seemed that he felt this wasn't a substantive amount of work to be done, and I'd just like to get a bit more clarity on that one — if he's thinking that maybe that figure is too low and should be increased or if our expectations about the work people are responsible for doing when they do have a claim should be changed somehow.

We've also had some significant discussions in the past on grouping claims, so I won't go into that today. It is important to note that the quartz mining land use regulations consist of a classification system based on varying levels of specific activities. These threshold levels categorize exploration activities into four classes of operation, those being classes one through four. They represent activities with increasing potential to cause adverse environmental impacts. Now we're starting to

get into the process of regulation and recognizing the activity that may occur on a claim, and starting to quantify the type of work that's being done and therefore the permitting that needs to go with it. The upper limit of an activity or element permissible within each class of operation is clearly defined. If an exploration operation exceeds even one of the criteria identified, it would move up into the next class of operation. Activities with a class 1 program are defined as grassroots exploration with low potential to cause adverse environmental effects, and where activities and reclamation work is completed within the year.

A class 1 program does not require government approval and the operator must comply with the operating conditions. An assessment under the *Yukon Environmental and Socio-economic Assessment Act* is not required for class 1 programs. There are a very limited number of activities that can be done under this type of process. We're not talking about clear-cutting huge tracts of land or digging huge trenches or putting in huge year-round camps; these are small, grassroots types of explorations. These are the ones that don't require any processing through YESAA.

The Member for Mount Lorne, when he was making his comments, talked about how there was not a licensing program or any regulations for who could be a prospector. I'm curious on his thoughts on this and wondering if he could expand on that more. I'm wondering if he does envision having licensed prospectors or some kind of process or accreditation in order to go out and be a prospector or to stake a claim.

Currently there is no requirement for any background or history of this. It's really left up to the market to decide their faith in the individual or his or her skill at finding a mineral deposit. I'd just like a little bit more clarity from the NDP, or from others, about whether they're actually proposing that we start to license or regulate prospectors in some way, shape or form.

Moving on to class 2 programs — they are considered to represent the upper level of grassroots exploration activities. A notification is submitted through the mining lands office that outlines the activities and how they are reclaimed. Class 2 programs are comprised of activities that have a moderate potential to cause diverse environmental effects and therefore require an assessment through YESAA, and all work and reclamation must be completed within one year.

All class 3 and class 4 programs require a submission of a detailed operating plan to the mining lands office — a YESAA assessment is required. The operating plan must be approved before any exploration activity can proceed. So obviously there are significant regulations in place that govern the different levels of activity on these issues.

Mr. Speaker, a major hardrock mining project in the Yukon moving to development would require a detailed environmental and socio-economic assessment and various regulatory approvals including but not limited to a type A or B water licence and quartz mining licence. There are two distinct stages that a project goes through before mining activity can commence. First, an assessment identifies environmental and socio-economic effects, their significance and related mitigation

measures. Second, there is the regulatory stage where regulators issue their respective permits, licences and other authorizations as the case may be. Most major mine development and production projects require a screening by the executive committee of YESAB, established under the *Yukon Environmental and Socio-economic Assessment Act*. Where the development and production level of a project does not meet the threshold for an executive committee level screening, it will be assessed through the appropriate designated office.

Proponents are encouraged to first contact the staff of the Energy, Mines and Resources, Mineral Resource branch, for preliminary discussions on regulatory requirements. The Yukon government works with proponents and YESAB on the integration of all assessment and regulatory requirements.

Following the YESAB assessment and after the decision document has been issued by the designated decision body, government regulators may — and I want to underline “may” — issue the required permits and licences. Any operator who wishes to construct a facility or do physical work in support of the commercial production of most minerals will require a quartz mining licence. This applies to all mines, whether or not they have an existing water licence. A quartz mining licence is required before development or production can begin.

All exploration activities that are not related to the delineation of known mineable reserves of a deposit under development and production are regulated under the quartz mining land use regulation. This allows the company to retain maximum flexibility in its exploration activities at the mine under their operating plan. Timing for the licence application process for new projects varies, depending on the complexity of the project. It is important for proponents to contact the mineral resource branches as early as possible in the planning process to discuss their project. Review of the application and the development of the quartz mining licence may occur concurrently with the YESAA assessment. However, a licence cannot be issued until a final decision document has been signed by the decision body. When it has been determined that the mining operation has been terminated, and all conditions of the licence in the *Quartz Mining Act* have been complied with, the Yukon government may issue a certificate of closure. The proponent then must make written application for such a certificate to the director of Mineral Resources. Issuance of the certificate would likely be independent of the closure of other licences, such as the water licence or the surface lease. A certificate of closure under the *Quartz Mining Act* does not extinguish closure obligations under any other authorization or legislation. The quartz mining licence will contain terms and conditions regarding reclamation of mining activities, as well as the financial security for reclamation and closure activities.

Reclamation under the quartz mining licence includes terrestrial impacts of the mining operations. Activities related to the use of water or deposit of waste into water will continue to be covered under the mine's water licence.

In some instances, mine reclamation requirements could be considered both terrestrial and water related. In these instances, the terms and conditions of the quartz mining licence will be designed so as to not conflict with the water licence require-

ments. However, the quartz mining licence may require additional mitigation beyond the water licence requirements.

Under the *Quartz Mining Act*, royalty is a share of profits from a mine in the Yukon acquired under the act reserved for the Yukon government as owner of the mineral rights for permitting extraction of mineral resources. It is paid by a mine owner or operator to the Yukon government.

Mineral rights over most of the Yukon are held by the territorial government. In areas where a Yukon First Nation has settled a land claim, there may also be lands with mineral title held by the First Nation.

Some of these lands — commonly referred to as category A settlement lands — are subject to existing mineral claims held by third parties. It's important to note that when many of the agreements were transferred to Yukon, or signed on to by Yukon, we had a responsibility to respect pre-existing third party rights. And, as a part of the negotiated final agreements, the Yukon government continues to administer the mineral claims and settlement lands through the encumbering rights provision. This provision provides government with the ability to manage the claims under the authority of the *Quartz Mining Act*. In this situation permitting, licensing, and collections of royalties continue with the Yukon government. It should be noted, though, that royalty paid on category A settlement lands will flow to the respective First Nation.

The placer industry is a bit different and the guidance provided by the *Placer Mining Act* and its regulations are also different. I appreciate that they're both lumped together in this one motion, but they are different pieces of legislation and do have different areas that they regulate.

The *Placer Mining Act* and associated regulations provide clear and comprehensive direction on the requirements for claims staking and the wide range of activities associated with placer mining. The *Placer Mining Act* is the primary piece of legislation governing placer mining activities on lands in Yukon. The purpose of the *Placer Mining Act* is to encourage prospecting, exploration, staking and the development of placer resources by providing an orderly system of allocation of exclusive rights to minerals. I would just like a little clarification from the mover of this motion as to whether or not he is in agreement with the purpose of the act, that being to encourage prospecting, exploration, staking and development of placer resources, or if there are other objectives that they would like to see in the legislation. I just want to ensure that we're consistent on some of these issues and that we can look for some common ground where it exists.

It's important to note that new placer claims cannot be staked within any Yukon municipalities. However, there are some placer claims in good standing within some municipalities due to municipal boundary expansion.

I would just like to go to the *Placer Mining Act* and bring members' attention to section 17(1) of the act, which states: "Subject to this Act, any individual eighteen years of age or over, on their own behalf, on behalf of any corporation authorized to carry on business in the Yukon, or on behalf of any other individual eighteen years of age or over, may enter for

mining purposes, locate, prospect, and mine for gold and other precious minerals or stones on any lands in the Yukon."

Continuing on to 17(2): "Subsection (1) does not apply to lands (a) entry on which for the purpose of locating a claim or prospecting for gold or other precious minerals or stones is prohibited by an order under section 98, except on the terms and conditions, if any, set out by the order; (b) used as a cemetery or burial ground; (c) lawfully occupied for placer mining purposes; (d) set apart and appropriated by the Commissioner in Executive Council to enable the Government of the Yukon to fulfil its obligations under land claims settlements; (e) within the boundaries of a city, town, or village, as defined in the Municipal Act, unless under regulations approved by the Commissioner in Executive Council; or (f) occupied by a building or within the curtilage of a dwelling-house."

I think this is an important point and I certainly want to emphasize for members here that the *Placer Mining Act* does already currently prohibit the staking of claims within the boundaries of a city, town or village, as defined by the *Municipal Act*.

I hope this puts to rest any further confusion around this area that people might fear placer claims being staked within the boundaries that are prohibited. I hope that clears up some of the issues regarding that.

I should also identify the *Quartz Mining Act* regulations. I know I went over that one a moment ago and jumped into placer. I apologize, Mr. Speaker, but I'm just going to have to return here to the *Quartz Mining Act* for a moment.

Mr. Speaker, section 12 of the *Quartz Mining Act* deals with the right to acquire mineral claims. It provides direction that, "Any individual eighteen years of age or over may enter, locate, prospect, and mine for minerals on (a) any vacant territorial lands; and (b) any lands in respect of which the right to enter, prospect, and mine for minerals is under the administration and control of the Commissioner."

There are certain exceptions to this. Section 14(1): "There shall be excepted from the provisions of section 12 any land occupied by any building, any land falling within the curtilage of any dwelling-house, and any land valuable for water-power purposes, or for the time being actually under cultivation, unless with the written consent of the owner, lessee, or locatee, or of the person in whom the legal estate in it is vested, any land on which any church or cemetery is situated, and any land lawfully occupied for mining purposes, except as provided by section 16."

The act also goes on in section 15(1) to identify additional exceptions: "Section 12 does not apply to lands entry on which for the purpose of locating a claim or prospecting or mining for minerals is prohibited by an order under subsection (2), except on the terms and conditions, if any, set out in the order;

"(2) Where, in the opinion of the Commissioner in Executive Council, any land in the Territory may be required for harbour, airfield, road, bridge or other public work or for a park, historic site or town site, the settlement of aboriginal land claims or any other public purpose, the Commissioner in Executive Council may, by order, prohibit entry on that land for the purpose of locating a claim or prospecting or mining for

minerals except on such terms and conditions as the Commissioner in Executive Council may prescribe.”

There are a few other conditions on this, but I’ll leave it up to members to conduct a bit more of their own research on section 15.

I do want to just note that there is section 16(1), which deals with security and that it states that, “No person shall enter on for mining purposes or shall mine on lands owned or lawfully occupied by another person until adequate security has been given, to the satisfaction of a mining recorder, for any loss or damage that may be thereby caused; (2) Any dispute respecting a decision of the mining recorder under subsection (1) as to the security to be given shall be heard and determined by the Yukon Surface Rights Board in accordance with the *Yukon Surface Rights Board Act* (Canada) on application by the person who is to give the security or the owner or lawful occupant of the lands.”

I think that’s an important point to note, in that when this piece of mirror legislation was put in place, there was an acknowledgment of the Yukon Surface Rights Board. This is a board that was established pursuant to self-government agreements in Yukon and provides for a conflict resolution mechanism, so that issues of concern can be addressed appropriately. I will get into that process in a little bit more detail in a few minutes.

I would just like to continue on now about some of the situations regarding placer mining and the legislation and regulations pursuant to it. The purpose of the *Placer Mining Act* is to encourage prospecting, exploration, staking and development of placer resources by providing an orderly system of allocation of exclusive rights to minerals.

Also, I want to once again reaffirm that it’s important to note that new placer claims cannot be staked with any Yukon municipality; however, there are some placer claims in good standing within some municipalities due to municipal boundary expansion. We have this situation in Dawson City.

Mineral tenure for placer mining is granted under the free-entry system in Yukon. A prospecting licence is not required in Yukon — for anyone 18 years of age or older, anyone approved by any corporation authorized to carry on business in the Yukon, or anyone on behalf of someone else 18 years of age or older may enter on to available lands for mining purposes, locate, prospect and mine for gold and other precious minerals or stone, ensuring they have followed the appropriate processes and that they have the appropriate permits in place.

There’s a bit more information regarding size of claims or how they’re plotted out. I think we can skip over a bit of that work. There has been discussion in the past about the processes for staking claims, the issue of changing claim posts and that type of thing.

What I really want to focus in on is some of the activities that can be done and that are regulated in regard to the placer mining land use regulations. These regulations classify exploration activities based on varying levels of specific activities. Placer mining exploration activities are also organized into four classes. There is an upper limit for activity permissible within that class of operation, detailed by specific criteria. If an explo-

ration operation exceeds even one of the criterion identified, it would move up into the next class of operation.

Different approvals and permits apply for each class. Off-claim activity in support of a placer claim can also require a separate land use permit. Activities that typically require a land use permit for off-claim land use include site clearing or earthwork, construction of a new road, trail or access, clearing or installing a utility right-of-way, quarrying or extracting aggregate, conducting geotechnical or hydrological studies, temporarily using or occupying Yukon land, such as for activities such as a construction camp, and oil and gas and seismic activities.

Other types of activities that generally do not require a land use permit can include things like trail cutting. This is for a trail less than 1.5 metres wide and less than four hectares in area. A land use permit allows a person to do a specific activity over a specified period of time. The permit does not give any exclusive rights or tenure to the land.

If a proponent wants to do work within a Yukon highway right-of-way, an application for a permit must be submitted to the Transportation branch of Yukon Department of Highways and Public Works. That’s for things like road intersections. Activities using water and/or discharging waste may require a water licence from the Water Board. The Yukon Water Board is an independent administrative tribunal established under the *Waters Act*. The board is responsible for the issuance of water licences for the use of water and/or the deposit of waste into water.

Placer mining in Yukon is also subject to the *Fisheries Act*, which is administered by the federal Department of Fisheries and Oceans. It should be noted that the Yukon Placer Secretariat is available to help the proponent with the appropriate forms and applications required under this act.

Lastly, all work performed on placer claims must also conform to the occupational health and safety regulations in connection with mine safety and section 15 of the Yukon *Placer Mining Act*. These activities that go on are far from unregulated.

The issue of land claims and the mineral industry has also been raised. I would like to provide a bit more information and background on this issue. Yukon’s First Nation final agreements provide significant clarity around both the *Quartz Mining Act* and the *Placer Mining Act*, the ability to stake claims and how existing grandfathered claims are to be administered in relationship to settlement lands.

These land claim agreements were developed over more than 20 years to provide this clarity. Indeed, there are many people in this Chamber and outside who spent countless hours working through these issues to ensure that they were addressed appropriately. In addition, the Government of Yukon is working with Yukon First Nations as full partners in resource development and involving them in Yukon’s resource economy — and this is a key departmental goal for Energy, Mines and Resources.

Some recent examples of collaboration and cooperation between Energy, Mines and Resources and Yukon First Nations relating to Yukon’s mineral industry include major mine

permitting: Energy, Mines and Resources ensures participation and consultations with First Nations throughout the assessment and regulatory phases of resource development. Additionally, we've been involved in supporting the involvement of First Nations in the mining industry. Ongoing initiatives include funding the Yukon Chamber of Mines to support First Nation participation at mining workshops and training courses, support for First Nation representatives to attend the annual mineral exploration round up in Vancouver and funding to assist with the annual pipeline and mining forum, hosted by the Liard First Nation Development Corporation.

Also it should be noted that just recently, in March, the Yukon government and the Council of Yukon First Nations co-hosted the Yukon First Nations Resource Opportunities Conference here in Whitehorse. I know I had the opportunity to attend part of that, and I know other members, including the Premier, were also in attendance at this function. It was very well-attended and demonstrated that there was a strong interest in seeing a responsible resource industry here in the territory.

It was also encouraging to see that many people were interested in being involved in the economic opportunities around these, whether it was the establishment of new service businesses, helping to introduce new technological services, the provision of additional support services, such as things like water quality testing and for those activities to be done here in the territory, or some of the ancillary services around the mineral industry. It was very encouraging to see the Yukon First Nations' level of activity in many of these initiatives.

Businesses and employment opportunities for First Nations exist for care and maintenance at abandoned type 2 mine sites. Energy, Mines and Resources Assessment and Abandoned Mines branch continues to provide funding that supports training for affected First Nations and provides business and employment opportunities related to the care and maintenance and closure implementation at abandoned type 2 mine sites.

We had an opportunity to discuss a bit about this yesterday during the budget debate about how there are training programs now in place. These training programs are being done in cooperation, I understand, with Yukon College and other contractors. They're looking at expanding skill sets and capacities for people to be involved in some of the care and maintenance activities, being involved in things like water quality testing or fish sampling, safe use of an electro-fisher, other safe work practices, and some of the other certification that's required for people working in remote areas, such as first-aid courses and that type of thing.

It's very encouraging to see the Department of Energy, Mines and Resources and First Nations working to ensure that Yukoners are being trained and prepared to take advantage of Yukon opportunities. I've often said that the role of the Department of Education is to help prepare Yukoners for Yukon opportunities. On the other hand, one of the roles of the Department of Energy, Mines and Resources is to help to prepare Yukon opportunities for Yukoners.

Additional initiatives the Department of Energy, Mines and Resources conducts are the establishment of district offices and liaisons with Yukon First Nations. Natural resource offices

develop and maintain on-the-ground informal working relationships with First Nations, advising on timber, lands and mining issues. They are in regular contact with their First Nation counterparts concerning joint field work and inspections and work together with them wherever possible.

Yukon is the only jurisdiction in Canada with a single assessment regime with fixed timelines for industrial and government projects. The roles and responsibilities of the Yukon Environmental and Socio-economic Assessment Board and the government decision bodies were jointly negotiated in chapter 12 of the *Umbrella Final Agreement*. Clearly, a substantial amount of work has been done in this area.

Yukon is the only northern jurisdiction to have control of our land, water, and other natural resources. This has meant made-in-Yukon decisions on all major industrial projects.

Clearly, we have some strong pieces of legislation in place. These include the *Quartz Mining Act* and the *Placer Mining Act*. This came about during the DAP process, the devolution process. I've gone over a bit of the information about how one goes from establishing a claim to doing some of the activities on it. Just for greater clarity on this one — as I mentioned, activities greater than a level 1 activity — anything over and above class 1 requires a YESAB assessment and an authorization from Mineral Resources.

I don't think I need to go into all of the criteria for class 1 but, just for members' clarity, it means that the number of person-days in a camp cannot exceed 250, the number of people in a camp at any one time cannot exceed 10. There are conservative limits on the amount of fuel stored on-site, limitations on construction of cut lines and, as I mentioned, they are not to exceed 1.5 metres in width and are to be cut by hand with handheld tools.

Additionally, there are restrictions on the number of clearings per claim, including the number of clearings for helicopter pads and the like. Establishing new access roads is not authorized; upgrading of access roads is not authorized; establishment of trails other than temporary trails per exploration program is not authorized. So there are some very specific limits on the activity that can happen just by having a claim.

Off-road vehicle use in summer can only be done with a low-ground pressure vehicle. Really, just having a claim allows one to undertake a class 1 activity which, as we can clearly see by the limitations on these activities, is not expected to have any long-term deleterious effects on the environment, on the community or on the land.

The next process I would like to identify is the process required to conduct activity on a claim, including the YESAA process, the mining authorization process, the water licence process and the land use permits. What I'm trying to do, really, is to overcome the misperception that simply having a claim allows for extreme land uses and irresponsible land use.

What I want to hopefully clear up for members is that by simply having a claim, you are only able to perform a very limited amount of activity. If we do start looking at increased activity or mine development, there are very significant processes that the proponents behind this type of development would

have to go through, including the YESAA process, mining authorization process, water licence, land use permits, et cetera.

If we go through the placer permitting process, the first step is to determine available land. One does that by reviewing the claims map, identifying those areas that are already staked, identifying those areas that are withdrawn, and identifying those that are prohibited from staking. The proponent would then review the staking guidelines, contract the district mining records officer if they have any questions and consult the placer staking guide and placer maps.

They would then stake the claims or prospecting lease, record the claims or the prospecting lease, submit the application form, fees and the sketch with the mining recorder office. The mining recorder office would then assess the claim or lease application and either reject or approve it. If the claim or lease is granted and then claim tags are issued, the claim holder must then affix tags on the claim posts. Then any land base access to claim or lease may require a land use permit. They would then refer someone to how to obtain a land use permit chart and to go through that process. At that point, they would also determine what permits may be required and refer to the placer mining land use regulations.

Following a class 2 type of operation, the proponent would contact the mining lands officer to ensure the program is within the threshold limits, ensure information provided is complete, complete the notification form, describe the proposed work and outline the reclamation and proposed mitigation work.

It is an important point to note that the mitigation work would have to be identified at this stage and committed to. It would then be determined if the program needs to be bumped to a different class, and that decision would be made at the local office. If YESAB determines the process is adequate, they would then begin to do an environmental and socio-economic assessment which would involve a notice of assessment to be published for public comments. There would then be a period of public comments and contact with affected First Nations. The YESAB district office would then complete an evaluation report which includes a recommendation. The report would then be sent to the government decision body and other decision bodies. I should note too that a decision body — the decision document does not allow any dirt to be moved. There are still further regulatory processes that have to be worked through. The Government of Yukon would then issue a decision document to accept, vary or reject the recommendation.

Any additional mitigation identified in the decision document must be included and agreed to by the applicant in their class 2 notification. It should be noted that often applications from a beginning stage through to a final approved process might change a bit. There might be ideas floated at the beginning that the proponent no longer wishes to pursue. There might be additional mitigated measures that may be proposed. Some of these may then be discussed in the appropriate timelines, but there is an opportunity to work with the decision body to address additional concerns in order to make the proposed project more acceptable. Once this is completed, Mr. Speaker, then the proponent proceeds with their exploration

process. If they're going through a class 3 approval process, again, it's a much stricter type of process.

There is further determination whether or not water licences are required. There are further discussions about the impacts of the situation, looking at the environmental and socio-economic impacts. This would then lead to additional permitting processes, such as how to obtain a land use permit. In this case, the proponent would submit a land use permit application form to the Land Management branch. The Land Management branch would then review the application, determine whether or not it meets the YESAA thresholds. If yes, the applicant would be directed to the YESAB designated office to complete and submit a YESAA form 1 and a copy of the land use application to the YESAB district office. The YESAB district office would then determine if the proposal is adequate. If it's not, clarification and additional information may be requested by the district office. The YESAB district office would then begin the environmental and socio-economic assessment.

A notice of assessment is then published and open for public comments. Contact with affected Yukon First Nations is then recommended. The YESAB district office then completes an evaluation report, which is included in its recommendations, and the report is sent to a Government of Yukon decision body, at which point the Government of Yukon issues a decision document to either accept or reject the recommendation. The Government of Yukon approves or rejects the application. This would then lead to the approval of the land use process.

Clearly, there are significant steps for a proponent to take in order to carry on additional activity on the land. Clearly, simply having a claim does not allow an individual to partake in irresponsible, unregulated activities. Clearly, Yukon has in place processes that regulate and permit these types of activities and they have been developed over a considerable number of years, involving a wide range of partners, stakeholders and other orders of government. Much of this process has been developed by looking at federal policies, practices and processes but, indeed, we have adjusted it to meet Yukon needs and Yukon contexts.

Our internal-to-Yukon YESAB process and the fact that we have a one-window approach to these types of issues is a strong asset that the territory has in competing on the world market in attracting responsible resource companies. In the discussions that I have had with resource companies — and I am sure other members will attest to this — they appreciate the level of scrutiny of the YESAB process, the level of detail, the level of certainty and the level of timelines. They recognize that the bar is very high, the expectations are very high and the requirements are very high for Yukon operations, including appropriate activities, appropriate environmental safeguards and appropriate remediation activities. They also appreciate that there is a certainty about knowing what to expect. This certainty makes for an easier investment in the territory.

Now, on the hardrock side of things, there are also other pieces of legislation that affect quartz or hardrock mining. Again, this is different; this is under a different legislative act. This is the *Quartz Mining Act* as opposed to the *Placer Mining Act*.

The *Quartz Mining Act* and quartz mining land use regulations guide hardrock exploration and mining in the Yukon. Activity is regulated by the Yukon government. Some of these regulations include land use regulations, *Miners Lien Act*, the *Quartz Mining Act*, *Territorial Lands (Yukon) Act*, water regulations, *Waters Act*, and the *Yukon Environmental and Socio-economic Assessment Act*.

Also, Mr. Speaker, information is provided to proponents in these areas, including guidelines for claims staking, a handbook on reclamation techniques and mining land use practices, mine reclamation and closure policies and guidelines, and royalty guidelines. Again, there is not an open licence to conduct activities based on the establishment of a quartz claim. Instead, there is a very well-thought-out, methodical, logical process that protects the interests of Yukon, Yukon people, Yukon's environment and Yukon companies. These are laid out in the pieces of legislation that govern this issue.

It is not a case where the simple existence of a quartz claim allows for unregulated, irresponsible activity. I hope that message is getting through.

There is more information regarding the mining authorization process and the water licence process. I'll leave it up to other members to look into those in a bit more detail. Information is available on-line about the process and some of the expectations that have to be met. In issuing mining authorizations, we do take into consideration the comments from people who may be affected by it. It very often results in mitigative steps or changes in activity being committed to by the proponent. This could be things like changing the hours of operation or changing the routing of a road or the establishment of noise or dust buffers.

There are legitimate concerns that can be raised by others and then, wherever possible, the proponent tries to find ways of lessening the impact of their activities on others. The mining authorization would then entrench some of those activities into their authorization and make the performance of what they've committed to mandatory.

This now brings us to the next issue, which is the role of a municipality in this type of situation. I'll go into a bit of detail here regarding the areas that can be covered under an official community plan and the issue of zoning. I want to make it very clear right at the beginning of my comments on this section that the Yukon government will continue to work with Yukon communities to address the challenges presented by different land uses within municipal boundaries. We will continue to work, for example, with the City of Whitehorse and the City of Dawson on some of their very specific issues. I've had some preliminary discussions with people from the City of Whitehorse but, as Minister of Energy, Mines and Resources, have reaffirmed our commitment to work with the City of Whitehorse to address some of their areas of concern.

The City of Whitehorse is in the process of establishing an official community plan and, once they have concluded that exercise, we'll be able to work through some more of their issues and concerns and hopefully address some with some greater certainty.

Claims staking within municipal boundaries has occurred infrequently. In the past it has been very limited in scope. I want to once again state that new placer claims cannot be staked within any Yukon municipality and work on claims under the *Quartz Mining Act* is subject to municipal zoning regulations.

The *Quartz Mining Act* expressly prohibits the staking of any claims on land occupied by any building or anywhere near a residence and any land under cultivation, unless with the written consent of the owner or lessee of the land.

Addressing the issue on a case-by-case basis, the Department of Energy, Mines and Resources ensures that the rights of both property owners with surface rights and miners with sub-surface rights are protected. And a thorough regulatory process must be followed before the development of any mineral claim in Yukon. The obligation for claim stakers to work with property owners is entrenched in Yukon legislation and reinforced by the extensive and thoroughly regulated process that any mine development must follow. Beginning with a review by the Yukon Environmental and Socio-economic Assessment Board, it requires mine licences and permits, and incorporates public and technical input to provide detailed guidelines for mine operators.

It was certainly anticipated during the land claim process, where the issue of a common or joint review process or YESAA process was created, that there could be the potential for conflict and that we would need some form of dispute resolution process around a variety of different issues in the territory.

I think we're all aware of the contentious nature of land in the territory. It's always a surprise to a newcomer to the territory when they see the amount of land we have and then find out the challenges in obtaining some of it. We are a territory that certainly respects the rights of individuals and certainly tries to take into consideration their thoughts and comments whenever we have any land activity. Well, I don't think we need to go into some of the discussions people have had.

I do remember, in a discussion with some land planners a couple of years ago, that they characterized certain areas in the Yukon of having a "banana effect". I scratched my head and said, "Well, does the banana refer to the shape of a development? Are you talking about the bow of a river?" They said, "No, BANANA is an acronym — build anywhere not anywhere near anyone."

That was a thought that appeared to be very prevalent among many people. I'm not sure, but I think were trying to be a little hipper than using the standard "NIMBY" refrain.

I also mentioned earlier that we can have disagreements about issues that many people would see to be very benign, such as the establishment of a community park or the establishment of a hockey arena, but we do have those issues that do come about. I expect that was part of the rationale of why — through the land claims process, the successor legislation and the devolution process — we saw the creation of the Yukon Surface Rights Board. The Yukon Surface Rights Board is a tribunal whose primary role is to resolve access disputes between those owning or having an interest in the surface of the land and others with access rights to the land. These disputes

are primarily related to accessing or using Yukon First Nation settlement land and, in certain circumstances, disputes involving access to or use of non-settlement land.

For example, the board's responsibilities under the *Placer Mining Act* and the *Quartz Mining Act* are to hear and determine disputes about compensation to be paid under those acts for loss or damages or about the adequacy of security required by the mining recorder. The Yukon Surface Rights Board has jurisdiction to resolve disputes over access to privately held land, including Yukon First Nations settlement land. It also has jurisdiction to resolve disputes over the competing rights of surface and subsurface users of land, including settlement land. The Surface Rights Board will also determine compensation for the expropriation of settlement land and an order of the Surface Rights Board will have the same legal effect as an order of the Yukon Supreme Court. The board's process starts when the parties are unable to reach an agreement and a party applies to the board. The board is intended to be the last means of resolving disputes. Consequently, applicants must attempt to resolve their disputes through negotiation before they apply to the board for an order. When the board accepts an application, it will first offer mediation to the parties.

If mediation is unsuccessful, the board will proceed with a hearing. Hearing procedures will follow the format prescribed in the *Yukon Surface Rights Board Act* and the board's rules of procedure. Orders of the board are binding and may be enforced in the same manner as an order from the Yukon Supreme Court. There is an office for the Yukon Surface Rights Board. They are located in the Horwood's Mall. They have jurisdiction derived from several different statutes. The prime authority for the board is the *Yukon Surface Rights Board Act* of Canada. Additionally, it is referred to in the *Quartz Mining Act* and the *Placer Mining Act*, both pieces of Yukon legislation, and also individual Yukon First Nation final agreements. Half of the board members are nominated by the Council of Yukon First Nations and half by the Government of Canada. The chair is appointed by the Minister of Indian and Northern Affairs Canada. They have an extensive process to go through.

When there is an issue that is brought to their attention, they will try to work through a negotiation process or through a mediation process, and then ultimately through a board hearing. But this is one other example of how there was considerable thought and attention put forward to these issues prior to devolution.

One of the issues that came forward in this motion was that the mover was interested in "prioritization of land claim settlements in disputes around mineral staking." We've gone through several pieces of legislation right now and I think there are significant areas of that legislation also in practice that have addressed many of these concerns. Also, there has been the establishment of additional processes, specifically through the Yukon Surface Rights Board, which will address many of the concerns that may arise into the future.

The Member for Mount Lorne also raised the issue of maintenance of the mineral industry's contribution to Yukon's economy. It should be noted that there has been a strong involvement by the Yukon mining industry and the Yukon re-

source industry in our economy. Over 500 Yukoners are employed directly by new hardrock mines in the territory. Those are employers we did not have operating in the territory a couple of years ago.

Hundreds more are working in placer mining operations and in mineral exploration projects throughout the Yukon. Those projects literally go from one end of the territory to the other. There is a tremendous excitement about opportunities in Yukon right now, and I know there are mining companies that are looking at opportunities from Beaver Creek to Watson Lake.

The *Quartz Mining Act* and the *Placer Mining Act* were both modernized in the late 1990s, with advice from a multi-stakeholder committee.

The recommendations led to the enactment of part 2 of each act, which governs exploration and mine land use and reclamation of land. This is among the most modern of such regimes in Canada, and was recently examined by the Province of Ontario, which is amending its mining legislation to make it more Yukon-like in respect of permitting activities on mining claims.

Additionally, by recognizing the importance of the mineral industry to Yukoners, we have continued to improve Yukon's investment climate by providing regulatory certainty and a streamlined regulatory regime, including completing amendments to the claims administration and finalizing amendments to royalty provisions of the *Quartz Mining Act* that allow government to be more responsive to this dynamic and evolving industry and will provide direct benefits to claims holders and to mine developers.

We finalized amendments to the *Miners Lien Act*, which modernized the legislation and assists in the ability for the industry to quantify risk while, at the same time, not to diminish the rights of Yukon suppliers to lien mines for unpaid bills.

Government of Yukon approved in 2006 Yukon's mine reclamation and closure policy. This introduced measures that ensure new mines are developed and managed in a sustainable and environmentally responsible manner and, in 2007, approved the security regulations that further clarified the legislative framework for security and developed financial and technical guidelines for the reclamation and closure policy, which provides greater clarity to industry on how to operate in Yukon.

Mr. Speaker, the Government of Yukon is continuing to strengthen its relationship with industry and with First Nations through ongoing partnerships, such as the Yukon Mineral Advisory Board and the Yukon Mine Training Association. I have recently met with the chair of the Yukon Mineral Advisory Board. We had a very positive discussion about some of the recent activities happening in Yukon. They have also provided some of their concerns as to what Yukon can do in order to maintain its competitiveness on this global market.

I should note that the responsible mineral companies are not interested in seeing a degradation of environmental standards; instead, they are seeking a greater clarity of the standards that are to be met and timelines they are to be met within. This will then give them a greater certainty in their operations. They are certainly eager to operate in Yukon. We saw this at

Roundup. We saw this at the prospectors and developers conference and we're seeing that, too, with the number of mines that are now operating and preparing to operate in the territory. The Yukon has a very strong reputation as a very positive place to do work and we want to continue to support that.

It wasn't that long ago that the Yukon did not have the same reputation. We only have to look back in our history a couple of years to see the effect that that had on our economy. While other jurisdictions were flourishing, where our neighbours to the east and to the west — the Northwest Territories and Alaska — were seeing growth in their exploration sectors and their mining sectors, Yukon was seeing a decline.

We saw a situation where we were down to, I believe, less than \$6 million a year in annual expenditures. When you take that much of an investment out of an economy, it has disastrous effects on the whole territory. We only have to look back a couple of years ago to remember — it has been referred to as "the U-Haul economy" — where people were leaving the territory however they could; and we're still recovering from that.

We saw the leaving of the 25- to 45-year old cohort in the late 1990s. It has had tremendous impacts on Yukon. The loss of that demographic has had a huge impact on our public schools.

One only has to look at the attendance at our schools where really we're down about a thousand students from only 10 years ago. It's because we lost a whole portion of our population and they took their children with them. We went from having 6,000 students to below 5,000 students now today, which creates other challenges for us. Also, we saw an increase in our average population. As the population ages, we have to work very hard to attract that next generation back to the Yukon. Don't get me wrong, there are many opportunities today for Yukon youth that are graduating from university, post-secondary education or trades training to come back and to pursue opportunities here, but in the late 1990s and early part of the 2000s, we saw a tremendous loss of population.

Now, through having appropriate policies in place, through working progressively with sectors such as the mineral industry and working progressively with others, we're seeing an expansion of the economy — an increase in the number of people employed in the territory, an increase in the number of longer term positions — and we're seeing the return of responsible resource extraction. I believe that this will form an important part of Yukon's economy. And we need to continue to nurture this industry, just as we do all other industries in the territory.

One of the ways of nurturing the growth and development of this is through working with others on training. We have a strong organization now, through the Yukon Mine Training Association, established with Yukon mining companies, industrial companies and Yukon First Nations. It is developing the skills, capacities and competencies of Yukoners so that they can take advantage of Yukon opportunities.

Additionally, the Government of Yukon has made significant investments in infrastructure to assist Yukoners, the visiting public and also the mining industry.

These include: \$31 million to improve and upgrade infrastructure on the southern Robert Campbell Highway over the

next few years; improving the resource access roads program, which will provide \$500,000 over the next four years to address the increase in demand for upgrading and improving public roads, specifically those to access natural resources; and providing resources for the construction of phase 1 of the Carmacks to Stewart Crossing transmission line, which is part of the Mayo B project.

Throughout the Department of Energy, Mines and Resources, we have implemented a culture of client service and support by establishing a project facilitation process to help mining companies with larger and more advanced projects secure permits and resolve issues in the development stage. On this issue we're not lowering the bar or lowering the standards; instead, we're working to ensure that companies know what the standards are, know where the goalposts are, and know what they have to do in order to meet them.

Eligible companies can also request a dedicated project facilitator who will assist with the regulatory reviews and timely resolution of issues as they occur. Also, Mr. Speaker, the Yukon mining incentive program provides financial and technical assistance to prospectors and junior mining companies for mineral prospecting and exploration activities in the Yukon. I appreciate that the Member for Mount Lorne indicated that this was an initiative that was first started by an NDP government and I will give him credit for that. Not everything they did was wrong. This was a positive step as were other initiatives undertaken by the NDP government. I will certainly give some credit where credit is due.

The mining incentive program will see a \$1.1-million increase to YMIP in the 2009-10 budget. This brings the total annual support for this program to \$1.8 million. The current funding levels are maintained for 2010-11 as well. A total of 106 mineral exploration projects were approved through the program, which was fully subscribed in 2009-10.

I had the opportunity to talk to some prospectors earlier this summer, and one was a fellow who was very involved with the White Gold discovery. This is an on-the-ground type of prospector. He does some helicopter work, but certainly goes through a number of hiking boots throughout the course of a season.

He had significant praise and accolades for the Yukon Geological Survey, for the data that it provides and the information that it conveys to people in the industry. He had taken a look at the information that was being provided and looked at other models of mineralization from other areas in North America and then used that to plot out where he thought that there might be an indication of resources. He applied on YMIP and received some funding, and that led to some of the exploration projects, which ultimately led to the White Gold discovery.

So when I see that kind of relationship between an individual gaining information from one sector of Energy, Mines and Resources, of working with others in the community — I believe he also works with YMTA and uses some of the folks who have been trained through some of their programs — who then leverages some additional resources to put in place an on-the-ground exploration program that then conducts the staking on that type of project so that he can have some certainty over

that, which would then allow that asset, that certainty or tenure, to find additional resources and then prove that up and now see that take the next step of being invested to — I'm not sure if all of the processes have gone through or if all of the stock exchange requirements have concluded or if the deal has indeed been done about Kinross being involved in the White Gold property, but it is tremendous to see initiatives like that happen.

I think it is initiatives like that that all members in this Assembly are in support of: where we have a Yukon prospector who goes out and does the research and stakes the ground and leverages that into conducting additional research and then goes through the permitting processes and now will ultimately go out to the market to raise additional resources, seeing a substantial investment by a world-class company — by Kinross, one that is responsible and responsive in their operations — I think it's that kind of evolution and that kind of development that we all want to see in the industry and in the territory.

I'm not sure if there is anyone here who wants to discourage that kind of thing. But from my discussions with people in the industry, they are very concerned about a change from what has been described as one of the best policies and practices in North America. That isn't to say that it isn't something that should be looked at, but it's something that has to be looked at very, very carefully. We do need to be aware of what the implications of something like this are and what the unintended consequences of this are.

What kind of fear would that send or create in the industry? And then, what kind of impact would that have on the territory? I don't think anyone would want to see us return to the 2002 levels of exploration or mining activity. If there is anyone in the Legislature who would like to see us return to that level of activity, I would like to hear that. I would like them to come forward and hear that because we're not hearing that. We're hearing that the three parties in this Assembly and Yukoners in general are supportive of seeing responsible mineral extraction, and that it would play an important part of our diversified economy. If there are others who have different perspective on that, I would certainly like to hear that.

Mr. Speaker, we are also working very hard to support Yukon's placer mining industry. In 2008, we implemented the new Yukon placer regime. This new fish habitat management system for placer mining is designed to balance the objectives of conservation of fish and fish habitat, supporting fisheries and a sustainable placer mining industry in Yukon.

Yukon government, Fisheries and Oceans Canada and the Council of Yukon First Nations are working together to implement this new regime for managing placer mining. Additionally, a number of Yukon mining projects continue to make significant progress. \$230 million will be spent to develop Yukon Zinc's Wolverine mine. This is the only base metal property moving forward to production in Canada this year.

Capstone Mining has been in commercial production for almost three years with great success and all indications support Capstone looking to expand the life of the Minto mine for a significant period of time.

Yukon government has issued a quartz mining licence for the Bellekeno mine, the primary permit authorizing Alexco to

immediately commence mine development and mill construction at the site, located within the Keno Hill/Silver district in Yukon. Mine production is scheduled to commence later this year.

Our strong commitment to Yukon's mineral industry and economy is evident in the considerable growth that we have experienced in the last seven years. It hasn't been done irresponsibly. It hasn't been done without steps to mitigate people's concerns. It has been done in a responsible, involved type of manner. In the past seven years exploration activity levels in the Yukon have increased more than tenfold, from \$8 million in 2000 to \$140 million in 2007. Exploration expenditures for 2008 were \$110 million with mine development spending around \$10 million. Development spending reached \$160 million in 2009, primarily at Yukon Zinc's Wolverine mine, and our exploration spending for 2009 is estimated at close to \$100 million. Preliminary estimates for exploration expenditures in 2010 are at almost \$150 million. Clearly, this is a strong industry in the territory, one that is having a significant contribution to Yukon's economy and one that clearly has significant regulatory processes in place in order to ensure responsible development.

Now I would next like to get into the issue of the process that has been developed under the devolution agreement for the creation of successor legislation. I appreciate the members' indulgence today. There has indeed been a considerable amount of information to put out and put on to the record. I trust that it has done a lot to clear up some misconceptions or misunderstandings that have been out there.

I appreciate we've had the opportunity to discuss a wide range of issues and now I would like to continue to take a look at the devolution agreement and the process that has been established for the creation of successor legislation.

Now, when Yukon became responsible for its lands and waters, we did that through the devolution transfer agreement. This was a very extensive document and agreement created with the Government of Canada that provides significant authority to Yukon, in particular of the lands and waters. Under section 2.8 of the devolution transfer agreement, it provides for the administration and control of the Commissioner of Yukon, in a section regarding lands and waters: "As of the date the *Yukon Act* (Canada) has repealed and replaced in accordance with section 2.1(a), the Commissioner of Yukon shall have the administrative and control of Public Lands and of all rights and respect of Waters and without limiting the generality of the foregoing, the Commissioner of Yukon may: (a) use Public Land or sell or otherwise dispose of the entire or any lesser interest in Public Land and retain the proceeds of the use, sale or disposition; (b) and exercise rights in respective Waters, or sell or otherwise dispose of them and retain the proceeds of their exercise, sale or disposition."

I should caution members, too, there is also federal legislation regarding this in the bulk waters act. The key point that I would like to bring out here, Mr. Speaker, is section 2.8.1, "The administration and control of Public Land and of rights in respect of Waters shall be exercised in a manner consistent with the terms and conditions of this Agreement. The transfer

of the administration and control of Public Land and of rights in respect of Waters to the Commissioner of Yukon shall not affect: (a) the 'specified substances right' of a Yukon First Nation in Category B Settlement Land and Fee Simple Settlement Land set out in 5.4.1.2 and 5.4.1.3 of a Yukon First Nation Final Agreement; (b) the 'specified substances right' of the Tetlit Gwich'in in Tetlit Gwich'in Yukon Land set out in 3.1.3 of Appendix C of the Gwich'in Comprehensive Land Claim Agreement; (c) any existing right or interest in, or any existing trust in respect of, Public Land ..." That's the one I'll come back to. I'll conclude with (d) which is, "Any existing right in respect of Waters."

It was laid out in the devolution transfer agreement that Yukon had to respect any right or interest in or any trust in respect of public land, which meant that Yukon had to respect all third party rights and all claims that others might have to Yukon lands when we took over the devolution transfer agreement.

That included becoming responsible for some of the historical issuances of lands, rights, titles or claims that have been put forward by the federal government, who had previously been responsible for it. So it ensures or mandates that Yukon continues to live up to the responsibilities that the federal government had in these areas.

That means that we have a continued responsibility to the third party land interests in the territory. Those people who have had claims, who have established them in the past, and have kept them in good standing, who continue to have expectations of the potential for their property, and that following the appropriate processes I've laid out in some detail, they, too, could implement their exploration processes, and following the appropriate permitting — again, turn that into a mine and potentially reap some economic reward. That's an important point to mention and to revisit.

The additional issue I'd like to bring forward from the devolution transfer agreement is the issue of successor legislation. Section 2.27 states: "Section A of Appendix B (YTG-First Nation Agreements) contains an agreement between the YTG and First Nations that are Parties to this Agreement which sets out cooperative working arrangements in respect of the development of a workplan and preparation of successor territorial legislation pertaining to the administration and control of Public Land and the administration and control of rights in respect of Waters."

When we go further into this, into Appendix B, it details the successor resource legislation. The successor resource legislation is legislation, then, that would update these pieces of legislation we're referring to today.

The purpose of the successor resource legislation section is to set out the approach to be followed by the territorial government and First Nations that are parties to the agreement. It acknowledges "...the respective authority and the jurisdiction of the YTG pursuant to the *Yukon Act* (Canada) and Yukon First Nations as set out in Yukon First Nation Final Agreements and Self-Government Agreements in respect of certain natural resource management, the YTG and First Nations recognize there may be benefits realized from working together to

develop compatible or, where appropriate, common natural resource management and legislative regimes in the Yukon."

"... 3.2 Nothing in this section shall be construed as: (a) limiting or otherwise affecting any authority or jurisdiction of the YTG or First Nations; or (b) limiting or otherwise affecting the legislative processes of the YTG or First Nations."

The successor resource legislation working group is also put forward in this agreement: "4.1 The YTG and First Nations that are Parties to this Agreement shall create, prior to the Effective Date, a successor resource legislation working group (the "Working Group") consisting of representatives of both the YTG and the First Nations."

"The Working Group shall serve as the cooperative working arrangement between the YTG and First Nations in respect of the development of successor resource legislation following the Effective Date and its overall role shall be to make recommendations to the YTG and First Nations in respect of such legislation, as set out in this Section.

"The Working Group shall initially be responsible for providing recommendations to the YTG and the First Nations in respect of: (a) priorities for development of successor resource legislation; (b) any opportunities identified for the development of a common or compatible regime in respect of particular successor resource legislation and First Nations' legislation; and (c) specific arrangements as may be appropriate for the development of particular successor resource legislation."

"4.4 The Working Group shall be responsible for providing recommendations regarding the development of each particular piece of successor resource legislation, however, the specific functions of the Working Group in making such recommendations, following the Effective Date, will vary depending upon: (a) the subject matter of the legislative regime to be developed; (b) the respective jurisdictions of the YTG and First Nations; "(c) the extent to which there may be an opportunity to develop common or compatible regimes in respect of the successor resource legislation and First Nations' legislation; and (d) such other matters as may be appropriate in the circumstances.

"4.5 The Working Group shall endeavour to operate on the basis of consensus in developing its recommendations but if there is no consensus, the representatives of the First Nations may make their recommendations to First Nations and the representatives of the YTG may make their recommendations to the YTG."

This section also identified public participation: "5.1 In addition to the arrangements set out in this Section, the YTG and First Nations acknowledge that consultation with the public and with stakeholders is an important element in the development of any successor resource legislation."

It's clear from the devolution transfer agreement that we need to follow a process that we have agreed to with regard to updating these pieces of legislation. I think that's an important point to recognize and somehow should be captured in this motion.

I appreciate the opportunity today to provide some more information and background on the history of mining and its significant impacts on Yukon, to have a broader discussion

about the free-entry system and how it works to the benefit of Yukon. There are significant benefits to this. I think that by taking a look at some of the outcomes of the system, people will also agree that we have some strong opportunities in the territory.

We've had an opportunity to look in a bit more detail into the *Quartz Mining Act* and Yukon's *Placer Mining Act*. It has been particularly important to look at the limitations that are currently in place in the legislation, to have a full appreciation that our *Placer Mining Act* prohibits the staking of placer mining claims in municipalities.

We've also had the discussion on the other limitations regarding staking in the *Quartz Mining Act*. We had an opportunity to have a discussion about some of the rights and responsibilities of a claim holder. We've also heard a bit more detail about the processes required to conduct activity on a claim. This isn't a situation where, if an individual receives a claim, that they have the ability to conduct unregulated activities, indeed, for our funding.

We've had a discussion about the requirements under YE-SAA, under the activities that are permissible without a review. We've taken a look at the activities that require review. We've also taken a look at the other activities that may take place on a claim and the process for their application, whether those be the mining authorization process, the application for a water licence or other land use permitting processes. Indeed, there are strong tools and regulations in place in order to address many of the concerns of people regarding the environment or the impact on others.

We've also had an opportunity to briefly discuss the role of the municipality in the process and to see that, through the official community plan or through the designation of bylaws or zoning, that they have the ability to determine the activities that are taking place within their municipal boundaries. We've had an opportunity to briefly look at some of the other activities that occur in a municipality. I do think it's important to note too that there are other activities that occur in a municipality other than those of a residential nature. Yes, municipalities and communities are very important because of the nature of establishing homes for individuals, but there are also other aspects that are important to have in a municipality and those also have to be covered in planning issues.

Healthy municipalities also have to have other structures, such as places for sewage disposal, or septic disposal or those types of things. There has to be access to gravel for construction materials — that typically means access to gravel pits. There also need to be other areas for power generation and that might include things like the diesel plants that, were it not for increased investments in hydroelectricity capacity, we'd have to start up more often in the future. There are other aspects in a community that also need to be addressed.

Also, Mr. Speaker, we've had an opportunity to discuss the Surface Rights Board and how that plays a role in addressing dispute around some of these issues. We've also had an opportunity to talk about the mineral industry's contribution to Yukon's community.

Also, last but not least, Mr. Speaker, I've had an opportunity to discuss the devolution transfer agreement that Yukon is party to and a requirement under that agreement to work through a process with Yukon First Nations on establishing successor legislation.

With that being said, Mr. Speaker, I took considerable notes during the presentation from the Member by Mount Lorne and, if I have some time now, I'd like to go through some of the issues that he raised.

Speaker: Order please. The time being 5:30 p.m., the House now stands adjourned until 1:00 p.m. tomorrow.

Debate on Motion No. 992 accordingly adjourned

The House adjourned at 5:30 p.m.

The following Sessional Paper was tabled April 14, 2010:

10-1-152

Yukon Hospital Corporation Financial Statements (audited), March 31, 2009 (Hart)