

June 16, 2026

The Honourable Stephen Lecce
Ministry of Energy and Mines
10th Floor Grenville Street,
Toronto, Ontario,
M7A 2C1

Delivered via Email: criticalminerals@ontario.ca / MinisterEnergy@ontario.ca

Dear Minister Lecce:

Re: ERO 026-0427: Fortifying Ontario’s Economy: A vision for protecting Ontario, strengthening economic sovereignty, and securing global leadership in critical minerals

(i) Introduction

The Canadian Environmental Law Association is providing the following comments on the Ontario Ministry of Energy and Mines’ (“Ministry”) paper titled “Fortifying Ontario’s Economy: A vision for protecting Ontario, strengthening economic sovereignty, and securing global leadership in critical minerals” (“Strategy”).

The Strategy was released on the Environmental Registry of Ontario on April 17, 2026, for public comment.¹

(ii) Background on CELA

The Canadian Environmental Law Association (“CELA”) is a legal aid clinic which represents low-income individuals and groups before administrative tribunals and all levels of court. CELA also undertakes law reform on a broad range of public interest environmental issues.

CELA has considerable expertise on mining issues, particularly its impact on the natural environment and Indigenous communities. In this regard, CELA has represented clients in legal challenges involving mining operations. CELA has also made submissions to governments on legislative and policy proposals related to mining.²

¹ Ontario Ministry of Mines and Energy, *Fortifying Ontario’s Economy: A Vision for protecting Ontario, strengthening economic sovereignty and securing global leadership in critical minerals*, April 26, 2026 (“The Strategy”)

² See, for example, Canadian Environmental Law Association, *Submissions of the Canadian Environmental Law Association, Bill 5, Protect Ontario by Unleashing our Economy Act, 2025*, Presented to the Ministries of Energy and Mines, Environment Conservation and Parks, Citizenship and Multiculturalism, Infrastructure, Economic

(iii) The Strategy

The Strategy is intended to provide a vision for a critical minerals value chain across the entire mining operation. According to the Strategy, a “mineral is considered “critical when it is essential, difficult to substitute and exposed to supply risk.”³ The Strategy states that in Ontario, “critical minerals are defined by their importance to economic growth, energy systems, advanced manufacturing, health care, and national defence – particularly where secure and reliable supply is essential.”⁴ There are 35 critical minerals listed in the Strategy.⁵

The Strategy states that its “renewed vision sets the course for the next phase of action: unapologetically protecting Ontario’s economy, strengthening national sovereignty, creating good-paying jobs and positioning Ontario as a trusted leader among Group of Seven partners in responsible critical mineral development.” These objectives, however, need to be balanced with environmental protection and Indigenous rights.

(iv) Environmental and Climate Change Impacts

While a secure and stable critical minerals supply chain plays an important role in Ontario’s economy, mining also causes serious and extensive adverse impacts on the natural environment. These include deforestation; habitat and biodiversity loss; soil erosion; water contamination from toxic chemicals and acid mine drainage; and air and climate pollution due to smelting and other mining operations.

Mining operations also result in significant greenhouse gas emissions. According to a report by the Canadian Climate Institute, in “Canada, emissions from all types of mining have increased from 8 megatonnes of carbon dioxide equivalent (Mt CO₂ e) in 2015, to 11 Mt CO₂ e in 2022— a 35 per cent jump.”⁶ The Strategy, however, fails to mention environmental risks and impacts, including those associated with climate change that can result from expanding mining operations in Ontario. In addition, the Strategy needs to also recognize the importance of ensuring preventative and mitigative measures to safeguard against these risks and impacts.

Furthermore, mining projects have the potential to result in major legacy costs if they are abandoned after they cease operating. An audit undertaken approximately ten years ago by the Auditor General of Ontario (“Auditor General”) noted that there were about 4,400 known

Development Job Creation and Trade, (May 2025), online: https://archive.celafoundation.ca/archive-item/cela-comments-on-bill-5-protect-ontario-by-unleashing-our-economy-act-2025/1624-cela_submissions_bill_5_final/; Canadian Environmental Law Association, Comments on the Proposed Terms of Reference for the Northern Road Link Project, (June 28, 2022), online: https://cela.ca/wp-content/uploads/2022/09/1494-Comments_-_Proposed_TOR_Northern_Road_Link_Project.pdf; Canadian Environmental Law Association, Bill 132 – Better for People, Smarter for Business Act, 2019, (November 27, 2019), online: <https://cela.ca/wp-content/uploads/2019/11/1306-Bill-132-Submission-from-the-Canadian-Environmental-Law-Association.pdf>

³ The Strategy, p. 6.

⁴ The Strategy, p. 6.

⁵ The Strategy, pp. 7-9.

⁶ Eyab Al-Aini, *Mining decarbonization; Low Carbon advantage in the global critical minerals race*, online: <https://climateinstitute.ca/wp-content/uploads/2025/05/Mining-decarbonization.pdf> at p.5.

abandoned mines in Ontario containing over 15,000 mine hazards known to the Ministry.⁷ At that time the Auditor General determined that financial assurances may be inadequate to cover mine close outs.⁸ If private owners are unable to undertake rehabilitation, the province could be left on the hook to shoulder these costs.⁹

We note that the federal government also released a Canadian Critical Minerals Strategy (“federal strategy”) which has been audited by the Commissioner of the Environment and Sustainable Development (“Commissioner”).¹⁰ The Commissioner’s audit stated that increased mining activities for critical minerals will result in a negative impact on climate, the environment and biodiversity. Specifically, the audit notes that “damages to Canada’s globally significant carbon sinks, such as forests, wetlands and peatlands, could release additional carbon and eliminate or reduce their potential to remove carbon dioxide from the atmosphere.”¹¹

The Commissioner concluded that Natural Resources Canada had not “fully defined the risk and mitigation measures to achieve its objectives on the climate and environment and on advancing Indigenous reconciliation.”¹² Furthermore, the Commissioner cautioned that “[e]ffective risk management is also essential to help with acceptance of new mining projects and to avoid the risks of financial liabilities resulting from contaminated sites.”¹³ Many of the concerns raised by the Commissioner in the federal context are also applicable to the Strategy.

(v) Ring of Fire and peatlands

The Strategy discusses prioritizing “building the essential transportation and energy corridors”¹⁴ in the Ring of Fire, but makes no mention of the fact that this area also contains the world’s second largest peatland complex. Mining in northern Ontario poses a major threat to the peatlands which are critical for preventing and mitigating the effects of climate change. A report by a group of scientific and technical experts has noted that “[p]eatlands in the Far North annually sequester an amount of carbon equal to about a third of Ontario’s total carbon emissions.¹⁵ The degradation of peatlands through activities such as mining can cause the release of huge quantities of greenhouse gases.¹⁶ This, in turn, could result in unpredictable atmospheric effects.¹⁷ These critical issues should be considered and addressed in the Strategy.

⁷ Auditor General of Ontario, 2015 Annual Report of the Office of the Auditor General, online: https://www.auditor.on.ca/en/reports_en/en15/3.11en15.pdf [“2015 Annual Report”] at pp. 438-84.

⁸ 2015 Annual Report, p.444.

⁹ 2015 Annual Report, p.444.

¹⁰ Office of the Auditor General of Canada, *Reports of the Commissioner of the Environment and Sustainable Development to the Parliament of Canada: The Canadian Critical Minerals Strategy*, (2004) [“Federal Strategy”] online: https://www.canada.ca/content/dam/oag-bvg/2021-2024-reports/documents/parl_cesd_202411_06_e.pdf

¹¹ Federal Strategy, p. iv.

¹² Federal Strategy p.7.

¹³ Federal Strategy, p.7.

¹⁴ The Strategy, p. 20.

¹⁵ The Far North Advisory Panel, *Science for a Changing North*, (April 2010), online: <https://collections.ola.org/mon/24006/302262.pdf#page=38> at 23.

¹⁶ International Union for Conservation of Nature, *Peatlands and Climate Change*, Issues Brief, online: <https://iucn.org/resources/issues-brief/peatlands-and-climate-change>

¹⁷ The Far North Advisory Panel, *Science for a Changing North*, (April 2010), online: <https://collections.ola.org/mon/24006/302262.pdf#page=38> at p. 23.

(vi) Rehabilitation costs for abandoned mine sites

Another major limitation in the Strategy is the failure to address the significant clean-up costs for rehabilitation of abandoned mine sites. The Auditor-General’s 2015 Annual report noted that the Ministry had estimated that the cost to rehabilitate mine sites could range from \$163 million to \$782 million.¹⁸ However, the Auditor General observed a more detailed assessment of the sites was required to obtain a more precise cost estimate.¹⁹ CELA recommends that the Ministry obtain a current estimate for the total rehabilitation costs for all abandoned mine sites in Ontario. The Ministry should also establish an operational and financial plan to clean up mine sites posing a threat to human health and safety or the environment, before mining operations are allowed to expand in Ontario.

CELA anticipates that government liability for rehabilitation costs will likely increase given the weakening of financial assurance and mine closure requirements through Bill 71, *Building More Mines Act, 2023*. The bill made the following amendment to the *Mining Act*:

- Removed government oversight over closure plans by allowing certification to be done by qualified person;²⁰
- Provided the Minister of Northern Development and Mines (“Minister”) the authority to issue a conditional filing order to permit proponents to file a closure plan that does not meet all the legal requirements.²¹ This would allow a mine project to proceed before all the outstanding requirements for a closure plan have been met;²² and
- Allowed proponents to file a phased financial assurance rather than providing the full estimated costs for rehabilitation measures up front.²³

The Ontario government has stated that these measures were intended to “reduce administrative burdens” and “create regulatory efficiencies.” However, these measures also significantly increase the risks that the province will have to bear rehabilitation costs if private owners are unable or unwilling to do so. The Strategy does not provide any indication how the province plans to address these issues.

(vii) Indigenous Communities

Critical mineral deposits in Ontario are heavily concentrated in areas that are also home to Indigenous communities, who have been and will be, affected by mining operations. This requires that constitutionally protected rights of the duty to consult and accommodate must be addressed. In this regard, a report prepared for the Impact Agency of Canada recommended that “achieving meaningful accommodation of the significant Indigenous interests affected by the irreversible decision about whether to open this territory up to development will also require

¹⁸ 2015 Annual Report, p. 462.

¹⁹ 2015 Annual Report, p. 462.

²⁰ Ontario, Building More Mines Act, 2023: Fact Sheet, (April 2024), online: https://www.geologyontario.mndm.gov.on.ca/mines/lands/mining-sequence/BMMA_Amendments_en.pdf [Fact Sheet], pp.1-2.

²¹ Fact Sheet, p. 3.

²² Fact Sheet, p. 3.

²³ Fact Sheet, p. 3.

some form of partnership with Indigenous governing authorities on a Regional Assessment.”²⁴ The report further states that “[m]eaningful accommodation will require a consideration of alternative options and scenarios, so as to determine which projects should go forward, how they should be sequenced in time, and how adverse impacts can be minimized, not just on a project-by-project basis, but overall, on a cumulative level.”²⁵

CELA supports those recommendations and is pleased to see that the Strategy has identified advancing Indigenous partnership as a priority that “is foundational to Ontario’s critical minerals future.”²⁶ In this regard, we expect that the provincial government will commit to meaningful and substantial consultation with Indigenous communities and respect their right to free, prior and informed consent as to whether a mining project should proceed and on what basis.

CELA is also of the firm view that the existing free entry system which allows mining claims to be staked online cannot be reconciled with constitutionally protected Treaty and Aboriginal rights. In this regard, we note that under the current system, approximately 10,000 mining claims have been registered in Grassy Narrows First Nation territory without notice, consultation or consent.²⁷ CELA recommends that the existing free entry system be reformed in a manner that recognizes constitutionally protected Treaty and Aboriginal rights and which balances mining interests with other potential land uses.

(viii) Permit- by-Rule

The Ministry has questioned whether a standard or permit by rule approach would be appropriate for mining operations. We strongly recommend such an approach not to be adopted. The permit-by-rule regime is only appropriate for low-risk activities which have predictable impacts. Mining operations, however, do not meet either criterion. Mining is an inherently disruptive industrial activity which poses significant environmental and public health risks that can result in severe and long-lasting determinantal impacts.

The permit-by-rule approach would allow mining companies to self-register their activities and comply with regulatory requirements as opposed to obtaining a permit. It would mean that mining companies would be exempted from the upfront assessment by government ministries to ensure that their operations do not cause harm to Ontario’s environment. It precludes government staff from identifying mining projects which may be problematic and to require changes to project design or construction to avoid or minimize adverse effects. Mining projects, therefore, need to be subject to strict regulatory oversight.

Furthermore, we note that activities that are subject to the permit-by-rule are also exempt from the notice and comment provisions as well as third party-appeal rights under Ontario’s

²⁴ Dayna Scott et al., Implementing a Regional, Indigenous-Led and Sustainability Informed Impact Assessment in Ontario’s Ring of Fire, (14, April 2020) [“Impact Assessment Report”], online: <https://registrydocumentsprd.blob.core.windows.net/commentsblob/project-80468/comment-58425/SCOTT.Final-Synthesis-report.pdf>, p.27

²⁵ Impact Assessment Report, p.27.

²⁶ The Strategy, p.25.

²⁷ Canadian Environmental Law Association, Casework: Grassy Narrows First Nation and Environmental Injustice, online: <https://cela.ca/casework-grassy-narrows-first-nation-and-environmental-injustice/>

Environmental Bill of Rights, 1993. Consequently, the permit-by rule regime would also result in a significant erosion of accountability and transparency over mining operations.

(ix) Conclusion

CELA is concerned that the Strategy focuses solely on mining's economic potential but ignores the environmental costs, socio-economic and cultural impacts and financial liabilities that arise from mining operations.

The Strategy, for example, fails to consider the major threat that mining operations in Ontario's Far North will have on the peatlands and its implications for advancing climate change. This issue needs to be addressed in the Strategy.

The Strategy also fails to address the legacy costs associated with abandoned mine sites in Ontario. CELA recommends that the Ministry obtain a current estimate for the total rehabilitation costs for all abandoned mine sites in Ontario. The Ministry should also establish an operational and financial plan to clean up mine sites posing a threat to human health and safety or the environment, before mining operations are allowed to expand in Ontario.

The provincial government should also commit to meaningful and substantial consultation with Indigenous communities and respect their right to free, prior and informed consent as to whether a mining project should proceed and on what basis. Furthermore, the existing free entry system must undergo substantial reform in a manner that recognizes constitutionally protected Treaty and Aboriginal rights and which balances mining interests with other potential land uses.

Finally, CELA strongly recommends against the adoption of a permit-by-rule approach for mining operations.

Thank you for the providing us the opportunity to comment on the Strategy.

Yours sincerely,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



Theresa McClenaghan
Executive Director



Ramani Nadarajah
Counsel

cc: Tyler Schulz, Commissioner of the Environment
Jamie West, NDP Critic Energy & Mines
Ted Hsu, Liberal Critic, Natural Resources, Mining and Forestry