

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

## Manitoba Perspectives

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

## Outline

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

# Legal and Institutional Barriers to Collaboration

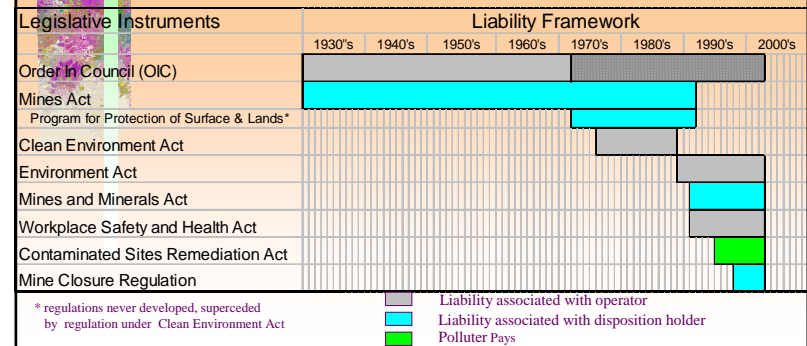
Mines and Minerals Act M162, Section 202:

The minister may direct the department to take action:

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

# Provincial Legislative Framework

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



## Interjurisdictional Challenges to Collaboration

### Fisheries Act:

- Section 36 - letter of warning
- standards for remediation

### War Measures Act:

May establish Federal liability for strategic minerals development

### Interprovincial Coordination:

Joint regulatory committee government agencies and industry

## Manitoba Contaminated Sites Remediation Act

### Lessons Learned

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## CONTAMINATED SITES ACT

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

## CCME GUIDING PRINCIPLES

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

## CCME GUIDING PRINCIPLES

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

## CCME GUIDING PRINCIPLES

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

## MANITOBA CONTAMINATED SITES REMEDIATION ACT

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

## MANITOBA CONTAMINATED SITES REMEDIATION ACT

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

## CONTAMINATED SITE

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

## IMPACTED SITE

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

## REMEDIATION

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

## MANITOBA CONTAMINATED SITES PROCESS

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