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Free entry mining is dead.

In February 2006, junior mining company Platinex Inc., began drilling on its mining claims on the Nemeigusabins Lake, an arm of Big Trout Lake, 650 kms northwest of Thunder Bay. The land was staked in the 1960s and 1970s and Platinex later purchased these claims. Under the Ontario Mining Act, anyone can stake a claim anywhere on Crown land, and as soon as it is filed with the government, it is valid.

But Nemeigusabins Lake is 40 km across Big Trout Lake from the community of Kitchenuhmayoosib Inninuwug First Nation (KI) it is part of their traditional lands, a place of reliable hunting and fishing sites, traplines, regular berry harvesting and burials of still-remembered family members. The water is clean. The land is quiet.

In 1929 the people of KI signed Treaty 9 to protect their ability to feed themselves by hunting, fishing and trapping, and prevent harassment by government officials and the encroachment of early miners and loggers. The KI community saw the treaty as a peaceful way to share the land with newcomers, while remaining connected to the lands sustenance and sacredness.

The Mining Act, however, does not mention that all Crown land in Ontario is covered by treaties with First Nations people. Its staking provisions exemplify, not sharing, but secrecy, greed, and an understanding of land as simply a source of profit.

When Platinex began their drill operation, without consulting the KI community, the people visited their campsite and protested. Platinex left, and shortly filed suit for \$10 billion against the impoverished community.

Nearly two years and five judicial decisions later, another hearing is scheduled for January 25, 2008. Justice Patrick Smith of the Ontario Superior Court will decide whether to sentence KI community members who defied the courts November 2, 2007 order to allow Platinex to drill.

The KI First Nation has suggested, in a letter to Michael Bryant, that all exploration be stopped while a joint panel of representatives from the KI and Ardoch Algonquin First Nations, and Ontarios new Ministry of Aboriginal Affairs and Premiers Office,

investigate mining exploration issues, and recommend ways to prevent future conflicts, including reform of the Mining Act.

The joint panel is a good idea. Its practical work will be difficult, but not impossible. Several models, such as the mining exploration rules under the Labrador Inuit Land Claims Agreement and the review process under the MacKenzie Valley Environmental Review Board exist, and may be helpful.

The challenge will be for the Ontario government to participate with an open mind. Ontario has a long history of ignoring First Nations treaty and aboriginal rights. This can be seen in Ipperwash and Caledonia, where First Nations groups tried for decades to have their claims heard by government, before taking their struggles to the land.

Ontario should enter its role on such a panel humbly, with full awareness of past errors and negligence. Ontario must understand that KI First Nation is not a stakeholder in a new approach to mining exploration like every First Nation in Ontario, it is, above all, a treaty partner. And recognition of treaty partnership is key to resource management in Ontario.

Mining companies, stock exchanges, shareholders and Ontario tax coffers have all benefited from the nearly 100-year-old free entry system enshrined in the Mining Act. Most First Nations communities in Ontario remain poor. Sharing the benefits of the land all its benefits, not just the immediate rate of return can only happen with real reconciliation between Aboriginal people and the Province of Ontario.

The people of KI have shown tenacity and determination, even a willingness to risk their liberty and be jailed, in protecting their land. Their connection to the land is central to their understanding of who they are, and they will not abandon it.

The first step in reconciliation will be Ontarios willingness to accept this fundamental fact and then, to work towards a new, respectful approach to mining exploration, envisioning a partnership of sharing among equals, in the true spirit of Treaty 9.

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