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The Airport/Port Transportation Authority Model

Is It Applicable for Ontario's Ring of Fire
Mineral Development?

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Executive Summary

An ongoing challenge for Ring of Fire (RoF) mineral development is who will pay for the required infrastructure and how it will be organized, planned, managed and implemented. A properly designed Authority model could be more effective than a traditional Crown Corporation to meet the infrastructure needs. The Authority model would maintain the core elements as formulated in Canadian Airport/Port Authorities, but would need to be tailored to fit the unique challenges of RoF development. An effective model would place the onus and risks on all the stakeholders and not just the provincial government and taxpayers, while maintaining elements of independence, inclusiveness, risk sharing, market-driven, political independence and legislated legally binding powers.

The Ring of Fire consists of an area in Northern Ontario near the Attawapiskat River, where large high-grade deposits of chromite, nickel, copper and other minerals have been discovered, currently valued from \$60 to \$100 billion dollars that can be mined over many decades. The mineral resources in the area are remote and difficult to access with many conflicting and competing interests and costly infrastructure requirements. Stakeholders include nine First Nation communities in the region, various mining companies and the provincial and federal governments, making infrastructure needs – such as railway, road, power, pipeline and/or air facilities – a complex arrangement.

The Government of Ontario announced that it will create a development corporation that would bring together public and private partners. Under such a Crown Corporation model, while stakeholders would have a major say and make investments, the provincial government would be expected to make the final decisions, approve all Board Members, review and approve plans and all major projects, fund the largest portions of the costs and accept most of the risks. However, issues such as uncertain mineral markets and prices, a growing provincial deficit and debt, as well as unresolved aboriginal demands and environmental assessments, suggest that there is good reason to transfer more of the responsibilities off the shoulders of the provincial government.

Such an option could involve creating a new independent and arm's length statutory Ring of Fire Infrastructure Authority. All parties would have formal representation on the Board and it, not government, would select its own Chair and senior management. The Authority would be given power to plan and procure all or most of the facilities and services for road, rail, power and air, while sharing costs and risks with the private sector – i.e. the investments from mining companies, railways, and hopefully public private partnerships and access to the normal financial markets. The market place, not governments, would bring the discipline needed in terms of the viability, costs, risks and rates of returns. Political direction and decisions would be minimized.

Background¹

Before addressing the main topic it is worthwhile to outline key elements, issues and players involved in mineral development in the “Ring of Fire” area of Northern Ontario. It is certainly not like mining and transporting potash on the Prairies or building a railroad branch line to the site of a new pulp and paper mill. The mineral resources in the Ring of Fire (RoF) are much more remote and inaccessible with many conflicting and competing interests and costly, complex transportation requirements.

I. The Region

Over the past decade, large high-grade deposits of chromite, nickel, copper and other minerals have been discovered in Northern Ontario, currently valued anywhere from \$60 to \$100 billion that experts believe can be mined over many decades. The resources are located about 500 km northeast of Thunder Bay and 350 km west of the Hudson Bay. The area, shaped as a crescent moon centered on McFaulks Lake near the Attawapiskat River, was named the Ring of Fire after the main prospector’s favourite song by Johnny Cash. The area covers about 5,000 square kilometers but to-date most of the mining activity is on a 20 km strip of land.

The region is part of the Hudson Bay Lowlands, a vast wetland with many rivers flowing slowly northeast to the Hudson Bay. Peat lands and marshes cover much of the area. It is sparsely populated by about 24,000 residents from nine Matawa First Nations.

Distances are long, the terrain difficult. Transportation is by water, over ice, via three

small airstrips or by float planes. The nearest roads are to the southwest, #599 in Pickle Lake (300 km), or south, #584 in Nakina (340 km). The nearest railways are about 400 km away: CN at Sioux Lookout/Savant Lake and Algoma Central and Ontario Northland at Hearst. Major power lines are also hundreds of kilometers away.

II. Infrastructure Challenges

Since the initial discoveries, approximately 30 companies have undertaken more extensive exploration and some have started rather contentious environmental assessments. The main companies include Cliffs Natural Resources (who, up until a recent decision to suspend work, was the most active), Noront Resources and KWG.

The need for a year-round road, railway, and/or pipeline depends largely on whether the minerals are shipped out as ore, pellets or slurry. One company, KWG, has staked out a transportation corridor on a long but narrow sand ridge to the main deposits that likely can’t accommodate both a railroad and a highway.

Cliffs Natural Resources was prepared to build and finance a 340 km road at a cost of \$600 million to Nakina but has not been allowed to proceed since its route is over KWG’s claims. KWG has suggested that “the Ontario Northland Railway Network should provide the transportation, extending its line from Hearst to the Ring of Fire,”² yet such a railroad has been estimated to cost up to \$2 billion.

To reduce heavy truck traffic, Noront originally planned to build a buried 90 kilometers long slurry pipeline, from its claim to Webeque Junction, the western portion of the area. The Government of Ontario has not yet decided

¹ Much of the specific information in this section is sourced from various newspaper articles, official government and company announcements and other public documents.

² Frank Smeenk, president and CEO of KWG, had stated this in a presentation at a mining forum hosted by Nishnawbe Aski Development Fund (NADF) in Timmins. Source: Wawatay News.

whether to build a road which it estimates may cost up to \$1.25 billion versus the \$600 million estimate by Cliffs. Decisions concerning electricity needs, power lines and on any extra air services and facilities are also significant unresolved issues.

Also, concerning the formation of communities, the scale, type and pace of mineral developments in the region, may result in either the establishment of new communities similar in size and scope as Elliot Lake or just small dormitories and camps as is the case for the Victor Diamond mine near Attawapiskat or the Voisey Bay nickel mine in Labrador.

III. Initiatives by the Stakeholders

The nine First Nations appointed a negotiator to look after their interests while the Government of Ontario appointed its own negotiator. The main issues include not only the community and environmental impacts, resource revenue sharing and employment, but also community capacity building, skills development, and social and transportation infrastructure needs for the aboriginal communities. A recent framework agreement represents a significant first step in addressing these complex issues.

Reporting to an Interdepartmental Ministerial Committee, the Ontario Ministry of Northern Development and Mines has a Ring of Fire Secretariat to develop: “the strategic vision and framework to facilitate successful development of the Ring of Fire initiative; promoting economic opportunities for Northern Ontario and Aboriginal communities; and partnering with other ministries to develop creative solutions that meet the interests of Northern Ontarians, Aboriginal communities and the mining industry, while achieving government business objectives.”

The Ontario government announced in November 2013 that it wants to create a new

development corporation “that would bring together private and public partners, including First Nations, mining companies, as well as the federal and provincial governments. --- The corporation would develop, construct, finance, operate and maintain infrastructure supporting access to strategic resources in the Ring of Fire.”

At the federal level, the Government of Canada has an Interdepartmental Ministerial Steering Committee on the Ring of Fire while the Department of Aboriginal Affairs and Northern Development has declared itself the lead in preparing an “Action Plan for Supporting Community Participation in the Ring of Fire”. In addition, the federal regional development corporation for Northern Ontario (FedNor), through its programs and financial support, also works with businesses and community partners to support economic development in the north.

While the Government of Canada has indicated that the needed infrastructure for resource development is “primarily” a provincial responsibility, discussions between the two levels of government continue in order to determine federal and provincial roles and financial support.

Lastly, the Government of Ontario still owns the Ontario Northland Railway (ONR) but is in the process of privatising it. Unions and several regional interests want to ensure that the ONR is chosen as the railway for the Ring of Fire.

IV. Key Questions

In summary, there is a plethora of issues, interests, corporations and agencies involved in the Ring of Fire development. While mining companies, governments, the First Nations and others have a good awareness of the resources and the challenges ahead, many final decisions have yet to be made including for transportation and other infrastructure planning. Some key questions come to mind:

1. Where, and more importantly, when will the main deposits be mined?
2. Will it be by open pit mining with large ore shipments and/or underground pits with some local processing, smaller shipments or even pipelines or all of these?
3. Will there be a need for a railway, a road, a slurry pipeline and new power lines and if so from where to where?
4. Will there be new local communities or dormitories, needs for improved air access and social infrastructure?
5. Who will pay for and manage the railway, road, power, pipeline and air facilities?
6. How will all this be organized, planned, managed and implemented?

This paper deals with the last two questions and will attempt to determine whether Canada's airport/port transportation authority model is useful and applicable for RoF development.

The Transportation Authority Model

In the 1990's, faced with very large deficits, the Government of Canada undertook a major program review and a budget reduction program including Transport Canada (TC). In 1994, the federal Cabinet concluded that CN Rail should be privatised and the air navigation services transferred to the airlines through a not-for-profit entity (now NAV Canada).

In addition TC found that:

- 94 percent of all air passengers and cargo use only 26 of 726 airports;
- 84 percent of all rail traffic use only 33 per cent of the railway lines;

- 80 percent of all marine traffic passes through only 30 of 300 public ports.

Based on these facts and the need to reduce federal transportation spending, the Cabinet determined that TC's role should be mainly on "steering" and much less on "rowing" the transportation system and to transfer more of the cost of the system to users. Accordingly, TC was to:

- focus on policy, safety and security and to get out of most operations as it had done with the privatisation of Air Canada and CN, and the commercialisation of NAV Canada and the airports in Calgary, Vancouver and Montreal (in the early nineties);
- eliminate or reduce rail freight and passenger subsidies and those for ferries;
- update the laws and regulations for all railways to give them more scope to become efficient and effective;
- commercialise the management and operations of all major airports and ports by creating autonomous non-profit community-based corporations; and
- transfer outright all other airports and ports to either local governments or, in the case of single user entities, to the private sector.

More important than simply a cost saving exercise, the commercialisation of hundreds of airports and ports across the country now allowed communities and users – rather than the federal government – to decide the use, the potential and the viability of these important assets.

The transportation authority model used in these divestitures consists in summary of the following:

- Non-share, non-profit capital corporations incorporated for airports under the Canada Corporation Act or for ports through the Canada Marine Act;
- For airports, through a detailed long term lease, have the new Corporations take over and operate the airport;
- For ports, to make the port corporations Agents of the Crown and under Letters Patent and by-laws to govern the operations, administration and financing of the port;
- Members of the Board (15 for airports, 7 for ports) are to be community leaders appointed by government (all three levels) and non-government organizations such as local Boards of Trade for airports or the users for ports;
- Many requirements for public input, transparency and accountability;
- Financially self-sufficient by financing all operations and maintenance through fees and charges;
- Finance capital expenditures by using excess operating revenues and by short and long term borrowing (for ports there are government limits on borrowing since before commercialisation many ports had incurred large debts that the government had to write-off to give them a chance to be viable).

There are currently 21 Canadian Airport Authorities (CAAs) that operate their airport under a 60-year lease from the Government of Canada. They were selected, if in 1993, they had either more than 200,000 passengers per year and/or were located in a provincial capital. Gander in Newfoundland has fallen below that level and Fort McMurray in Alberta wants in since it now has over one million passengers per year.

As for the other smaller airports that TC used to own and operate, they have been transferred

outright to local communities or become defunct. Many of them have been incorporated under municipal acts or provincial legislation with, in most cases, the same governance and management regime as the CAAs: community-based board members, independent operations and financing, and public accountability and transparency. In Northern Ontario, Greater Sudbury serves as a good example. In 2000, ownership and governance was transferred to the Sudbury Airport Community Development Corporation, a non-share capital corporation with 12 locally-based Directors.

Greater Sudbury and other non-CAA airports have to finance their own operations from various fees but can access government funds for capital (as Sudbury did for new hangars) or qualify for the federal Airports Capital Assistance Program (ACAP) that helps finance capital projects that will maintain and improve safety such as runway repairs or improved apron lighting. In 2013, ACAP invested \$38 million under this program.

With respect to ports, there were originally 18 Canadian Port Authorities (CPAs). They were selected based on the volume of diversified shipments, strategic importance for trade, and links with rail and highways. Belledune in Northern New Brunswick and Oshawa in Ontario have since been added to this original group.

The other smaller ports and wharves have been transferred to local communities or in some cases to local companies such as the Port of Bayside in New Brunswick. Here, too, many community owners and operators have adopted the governance model of TC's Transport Authorities. Private operators have chosen different models.

Successes and Problems of the Transportation Authority Model

Overall the Transportation Authority model has been a success. Collectively all the CAA's have, with their new freedoms and powers, increased the number of passengers by 65 percent from 1995 to 2012 and spent \$14 billion on new or improved terminals, runways and access. This has helped to modernize and expand the facilities which now support 141,000 direct jobs³.

The major expansions and improvements in such airports as Vancouver, Calgary and Toronto are prime examples as are the investments in smaller ones such as Winnipeg and Thunder Bay. It is important to note that all of this was decided by the communities and the Airport Boards with no financial costs to the Government of Canada – which now receives revenues (about \$300 million in 2013) from annual airport rent payments. If the airports had remained in the hands of the government, such achievements would never have been realized, given the lack of financial resources from the Consolidated Revenue Fund and its slow, complex, cumbersome decision-making.

The same good track record is a fact for the CPAs. For example, the Port of Prince Rupert in Northern British Columbia had a very difficult past with many ups and downs for decades. With its new CPA authorities and management, it decided ten years ago to take advantage of its relatively shorter distance to Asia to build a major \$175 million container terminal. Funding came not only from the Port itself (\$25 million) but from the provincial and federal governments (a combined \$60 million) and from the private sector (\$85 million from CN Rail and from

Maier, the terminal operator). This initiative was, and still is, a highly successful joint effort where all the parties acted in unison and shared costs and risks.

Similar major expansions and investments have occurred in the Port of Vancouver as part of the federal government's Pacific Gateway Initiative. Here, the port, terminal operators, shippers, railways and government have worked together and shared the costs and risks to expand and improve the access to the Port by jointly investing over \$2 billion from 2000 until 2013⁴.

In resource-based and remote areas, Fort McMurray and Nunavut airports are good case studies. In these local communities, partnerships were formed and decisions were made collectively to expand airports to meet increased demand. They were creative and sought out other funding models; in the case of Nunavut, financing was secured through a public-private partnership (P3).

But the Transportation Authority model is not without problems.

The federal government has, for example, used the CAAs as "cash cows" collecting hundreds of millions in rent and other fees from airports and passengers annually while only investing in complicated and costly air security systems. Moreover, for the smaller airports, it has only provided modest investment for safety related projects through its Airport Capital Assistance Program.

In terms of governance, there seem to be three concerns that are more perceptions and observations that have not been proven factually:

- whether there is enough transparency in the corporations with sufficient

³ Source: Transport Canada and Canadian Airports Council.

⁴ Source: Transport Canada.

- information provided to the public on plans, operations, charges and impacts;
- whether the Board appointment system is too much of an exclusive system and not truly representative of the many pro and con interests of the community, including as one example no representations from airlines on the CAAs' Boards;
 - whether some of the Authorities with their market share and dominance have become quasi monopolies and run rather costly and top heavy organizations.

For smaller ports and airports, the biggest challenge is how to raise capital for project financing when they often have little access to cash. This presents a huge obstacle for transformative initiatives. Smaller airports, with limited revenues from landing fees and commercial leases, frequently have to charge all passengers a fee just to cover operating costs.

Notwithstanding these issues and challenges, overall the Transportation Authority model works well. The Authorities are statutory, stable, with clear powers and rules, independent and free from day-to-day political direction and interference. The main interests are represented on the Boards with many requirements for public input, transparency and accountability. They have specific fiduciary responsibilities and accountability for all revenues, costs, procurements, investments and borrowing. They can enter into partnerships, including P3 ones, for specific investments and can access the normal capital market and search for new ways to finance large-scale projects.

Further, they have also eliminated the responsibility and large cost implications for the government to plan and decide, ever so slowly, to invest in airports and ports, to cover operating losses and write-off debts. The buck stops with the authorities. The government bears few if any

risks as long as it monitors and ensures, as it does, that the authorities remain financially viable.

Will Investments Realize Expectations?

There are many examples of the cliché that “if you build it they will come” such as the investments in the Greater Vancouver region over the past 15 years in its port, airport and associated roads, bridges, railways and transit system.

However, what is often forgotten is that there are also many examples of “if you build it they will not come”. The Mirabel Airport north of Montreal is the best example of the latter. Just as it was being opened in 1975, it became apparent that the airport would become a costly white elephant. For resource development and remote areas, the Dease Lake investments in Northern British Columbia in the 1970's is another cautionary example. In this case, the BC government, through its provincial railway, started to build a railroad extension north from its main line to access large asbestos and copper deposits. But when the railroad was well underway and grading was completed at a cost of \$168 million (about \$300 million in today's dollars), the price and markets for the minerals dropped. The mining companies did not come.

To a lesser extent, this is also true for the railroad extension from Flin Flon/The Pas to Churchill, Manitoba. While it helped local communities, reduced isolation and generated some economic spin-offs, the hoped-for developments and traffic have not materialized in large quantities and the railway and port have been, to the governments, a costly operation for decades. The same was true for the Ridley Island grain and coal terminals in Prince Rupert where

investments by governments in the 1970's and 1980's did not generate the traffic and revenue forecasted, with sub-sequential operating subsidies and debt write-offs. It is only in the last few years that the coal terminal seems to have met its projected potential.

Governance Options

Given all of the above, is the Transportation Authority model a useful and practical governance option to meet the infrastructure needs for the "Ring of Fire" mineral development in Northern Ontario? There are other more traditional options.

One option is to keep the roles and responsibilities among the interests simple: placing the largest or most important ones on the shoulders of the mining companies themselves. The iron ore developments in Labrador and Sept-Iles are a good example of this. Back in the 1950's, to mine and transport the ore, governments expanded the port in Sept-Iles and the mining companies built and operated the railways (and still do). An even simpler model was used for Voisey Bay's nickel deposits in Labrador where the mining company paid for the access roads to the site, the port and a special cargo vessel to ship the ore south; governments' roles and investments were relatively smaller.

However, as summarized in an earlier section of this paper, the development of the Ring of Fire is more complicated given its remoteness, the many interests and the varied needs. In addition, in the Ring of Fire, there does not seem to be one company with deep enough pockets and ownership of most or all of the deposits as is the case for the Iron Ore Company and Inco/Vale in Labrador. Nor is there, at this time, one community or town that would be the main centre of activities.

It is presumably for that reason that the Government of Ontario announced in November that it wants to create a development corporation that would "bring together private and public partners, including First Nations, mining companies, as well as the federal and provincial governments." It "will begin immediate work with partners, including the federal government, on the development corporation to determine its scope and a suitable governance model." It was also a topic in a recent meeting in Ottawa between the Premier of Ontario and the Prime Minister.

One would expect such a government Crown Corporation would be in the traditional model of a more hands-on focused entity such as the federal Cape Breton Development Corporation and not like the federal regional development bodies such as FedNor. All key parties would be represented on the Board, develop the corporate plans, decide on the major priorities as the Ontario Government has announced to "develop, construct, finance, operate and maintain infrastructure supporting access to strategic resources in the Ring of Fire."

In sum, the provincial government seems to want a new entity that is focused, driven by market dynamics and community needs with lots of private sector involvement/Board representation and public consultations. However, under such a Crown Corporation model, while others – such as the mining companies and Aboriginal Affairs and Northern Development Canada – would have a major say and make investments, the provincial government would presumably be expected to make the final decisions, approve all Board Members, review and approve plans and all major projects, fund the largest portions of the costs and accept most of the risks. Simply put, the buck would stop at Queen's Park.

Yet, this is at a time when mineral markets and prices are uncertain. In 2008 chromite sold for over \$6.00/Kg, today it is about \$2.50. It certainly impacts the economics of getting the commodity to market. So is this the time for the Province to accept such responsibilities and risks? The Ontario government is strapped for cash. Additionally, many other issues such as aboriginal demands and environmental assessments have not been resolved. And if you build it they may not come (such as Dease Lake) or they come much later (such as the Ridley Island terminals).

Hence, are there not other governance models similar to the Transportation Authority model that could be considered: to transfer more of the responsibilities to others some distance removed from governments, further than is the case for most Crown Corporations? Such an option could involve creating a new independent and arm's length statutory Ring of Fire Infrastructure Authority. All parties would have formal representation on the Board and it, not government, would select its own Chair and senior management.

The Authority would be given, by explicit statutory powers, authority to plan and procure all or most of the facilities and services for road, rail, power and air. Perhaps some issues would be beyond the scope of the Authority, such as the social and other transportation needs for aboriginal communities where aboriginal affairs departments would have the main roles (discussed in more detail below).

A Ring of Fire Infrastructure Authority would have limited access to government funds – perhaps only initial base funding or in some cases loan guarantees offset by future royalties and taxes. The Authority would share costs and risks with the private sector, the investments from mining companies, railways, and hopefully public private partnerships and access to the

normal financial markets. The market place, not governments, would bring the discipline needed in terms of the viability, costs, risks and rates of returns. Political direction and decisions would be minimized.

Concluding Comments

This paper makes the case that the Transportation Authority model could be more effective than a traditional Crown Corporation to meet the infrastructure needs for the “Ring of Fire” mineral development in Northern Ontario. It would place the onus and risks on all the stakeholders and not just the provincial government and taxpayers. Because of the uniqueness of the Ring of Fire development and its many challenges, there will be an inevitable need to make changes in the Transportation Authority Model. Nonetheless, its main elements – independence, inclusiveness, risk sharing, market-driven, political independence, legislated legally binding powers – would all be practical and essential.

It is not the purpose of this paper to outline a detailed Authority model or a road map to action it. It is to be used as a think piece for future discussion on whether there are, in principle, not more effective models than traditional Crown Corporations, such as the Transportation Authority model, to plan, finance and implement the infrastructure needs for the Ring of Fire mineral development.

To facilitate a more informed debate and follow-up steps, there are some important issues that merit further elaboration.

I. First Nation Benefits

One important issue is how RoF mineral development will benefit the First Nations in the region. They presumably will share in the

revenues from the mineral developments and will need social and other infrastructure in and around their communities. The mining and infrastructure projects may also present them with significant income opportunities not only for employment, but also for supplies and services.

In this regard, special efforts will be required by First Nations, government agencies and mining companies. While the newly appointed negotiators are addressing these and other challenges and opportunities, it nevertheless stands to reason that any action will require special expertise from First Nations leadership and from government aboriginal affairs agencies. They ought to have the lead role on the social components of change: sustainable growth of the communities, social and transportation infrastructure, training, business development and other purely local issues.

It would be unrealistic to assume that a Ring of Fire Infrastructure Authority could or should play the lead role in these First Nation matters. The Authority ought to focus on the main major infrastructure – whether it be road, rail, pipeline and air – and utility needs depending on the amount of exploration, the pace of development and the associated access and transportation demands.

II. Geographical Scope

If such an Authority were to be established it would potentially have a larger geographical scope than the CPA's and CAA's. Although to-date activity is concentrated in a relatively small area, the road and rail distances are long. How large should its geographical reach be? It might be best to concentrate on the immediate Ring of Fire area and leave it to others – albeit as partners – to be responsible for the longer distance transportation services.

For example, in Prince Rupert, the Port had the lead on the container terminal but had a formal agreement with CN Rail to provide and upgrade the rail service and it in turn recouped its costs from freight rates. The same model could apply to the Ring of Fire: the Authority would take the lead on the overall plans, costs, financing options and management, but a railroad – CN Rail or the ONR – could build it and recoup any of its direct costs, minus special grants if any, from freight rates. The railroad could be a member of the Board and a formal partner but its operations would remain separate from that of the Authority.

III. Crown Corporation vs. an Authority

The Authority option would replace the proposed Crown Corporation. Based on the CAA and CPA models, its membership and Board would consist of representatives from all the key stakeholders: mining companies, First Nations and the three levels of government with, as an illustration, three members from each group. These nine could then appoint another 3-4 independent members from local business, a railroad, and from among mining and construction experts or other discipline experts. That Board would elect its own Chairman and recruit its senior management, all several steps removed from any government. The buck would stop with all the stakeholders, not Queen's Park.

The Authority would also not be involved in final decisions on the pace and location of mineral developments or competing claims. The mining companies would retain the exclusive power to decide and resolve with, if and when needed, the existing regulatory bodies or even the courts in Ontario.

And as noted previously, the Authority would have only limited access to government funds and unlike a Crown Corporation it could not rely

or depend on government backstopping of risks or debts. Those risks would be taken by the Authority and its partners such as the mining and railway companies and especially, since the finances would be removed from the government's books, by bond holders or any other financial stakeholders or partners that were prepared to help the Authority finance the projects.

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