

Open Letter to Bureau of Minerals and Petroleum.

October 2008

RE: BMP's PROPOSED CHANGES TO MINERAL RESOURCES ACT

Dear Sir,

The changes proposed by the Bureau of Minerals and Petroleum (BMP) to Greenland's Mineral Resources Act regarding the rights of Native Greenlandic people to undertake small-scale mining activities, specifically for gemstone ruby, are unwise and unwelcome. Two points are especially troubling regarding BMP's proposed changes (The Proposal):

The Proposal is prohibitively complex.

It comprises some thirty (40) pages containing 10.000 words. It will prove difficult for citizens to use, read or understand. The Proposal does not appear to be designed to encourage small-scale mining (SSM) but, rather, it appears designed to discourage SSM by means of creating an elaborate and intricate new system similar to large-scale mining (LSM) that will be expensive and burdensome, if not impossible, for Greenlanders to satisfy.

The Proposal is unnecessary.

It supersedes Section 32 of the Mineral Resources Act, which has functioned adequately for generations, guaranteeing native Greenlanders their traditional rights to prospect the land and to benefit from their labours. There never was a problem with Section 32 or the commercialisation of any minerals, until the BMP attempted to create an LSM monopoly that excluded Greenlanders from participating in the Greenland ruby and mineral business as individuals or in the form of a village or family enterprise.

As you know, a group of concerned citizens recently formed the 16 August Union to protest the treatment of native Greenlanders by the BMP and to argue for their rights under section 32 to engage in the economic activity of SSM and to earn a decent living from this activity. These citizens have form a small-miners association like those working successfully elsewhere in the world to advocate for their native rights to mine under article 32. The members of the Union are concerned that BMP has illegally confiscated ruby goods that rightfully belong to Mr. Niels Madsen, Mr. Christian de Renouard, and Mr. Thue Noahsen. Thue's harsh treatment is especially concerning in that Mr. Noahsen had a valid export permit for 5 kilograms of ruby issued by the BMP, but that permit was violated by Greenland Police under orders from BMP when he tried to fly to Denmark to visit family and friends. Similar permits issued to other members of

the Greenland Stone Club had been routinely honoured for years, highlighting BMP's duplicity in action. The BMP arbitrarily applies apparent laws without due process or means of appeal. This behaviour is we believe unlawful and unaccountable.

BMP's actions effectively criminalize what, for generations, has been a legal economic activity: Greenlanders prospecting for ruby and other minerals and the making of jewelry products for sale.

Under Inuit tradition, the people have held sacred their rights to access the land and sea to hunt, fish and prospect. In the old days, Greenlanders used rock and mineral products to make tools useful for hunting and fishing, and to make items for trade and currency. In Kalaallit Nunaat, many individuals and families now support themselves over the long winter by hand-making beautiful ruby jewelry for sale in Nuuk and Copenhagen and elsewhere in the world. The rights of Greenlanders to access land under these ancient traditions were protected for decades under Section 32. Now the BMP's Proposal seeks to change that language and to strip away that proud and noble heritage. We reject this move totally.

The "Semi-Precious - versus - Precious" Distraction.

One of the most glaring errors in the Proposal is BMP's incorrect usage of the terms "precious" and "semiprecious" stones. Using such obsolete vocabulary, the BMP is trying to deny the Inuit access to valuable ruby through this misleading description of rock types. Since 1981, the distinction of "precious-versus-semiprecious" gemstones is no longer recognized or taught by the Gemmological Institute of America (GIA), the world's largest and foremost educator in gemmology.

Furthermore, the language "precious-versus-semiprecious" gemstones is no longer considered valid by the International Colored Gemstone Association (ICA) or the American Gem Trade Association (AGTA), the two largest and most important professional associations in the global gemstone and jewelry business. Even more important, the usage of "precious-versus-semiprecious" is no longer recognized or accepted by the Federal Trade Commission (FTC), and is not admissible in international court of law. Even if such a mis-leading and potentially fraudulent term was originally debated back in the 1970's when the original Act was written, "precious-versus semiprecious" doesn't belong in the Act today. This bogus term is nothing more than a means to disempower the Greenlanders and to deny the Inuit a means to a traditional livelihood.

Equally unjust is BMP's harsh new policy of denying export permits for ruby to young Greenlanders who have become members of the Greenland Stone Club. In past years, the BMP granted export permits for thousands of kilos of mineral product, including ruby, to members of the Greenland Stone Club. The BMP even sponsored the Club's travel and attendance to sell ruby and other items at the International Gem and Mineral Shows in Tucson, USA, and in Munich, Germany. BMP's new restrictions of Greenlanders to export and sell ruby are dishonest and hypocritical.

BMP's actions toward Greenlanders rights to ruby amount to ethnic humiliation and cultural stereo-typing. These actions are unacceptable to Greenlanders, and to members of civil society in the world community.

Institutional Hypocrisy

The institutional hypocrisy of BMP goes to the Bureau saying one thing in public at town meetings, but doing the opposite in practice in private. In town meetings in the village of Fiskenaasset, for example on 7 July 2005, Ms. Anette Jorgensen with the BMP told the people that under Section 32 they had the right to collect ruby of any type, including gem-quality stones, from TNG's exploration licenses while on their own time. She told them they could manufacture jewelry products the same way they had for generations, and sell it to whomever they wanted.

Now the BMP is breaking their promise, trying to pretend that no Greenlanders ever worked and sold gem ruby under Section 32, when the people of Fiskenaasset and Nuuk know otherwise. Now the BMP is refusing to grant prospector's licences and export permits to qualified individuals. Now the BMP want the change the Mineral Resources Act, using the Proposal, to burden Greenlanders with the same costs and requirements imposed on large, well-financed multi-national mining companies. The many problems with the Proposal are identified line-by-line in the attached appendix.

There is a lack of transparent dialog and the people no longer trust the BMP.

Strong Public Support of the 16th August Union

Our Movement, the 16 August Union, circulated a petition in support of Greenlander's rights to ruby under Section 32. Over **3000** Greenlanders to date have signed the petition and another **750** people signed electronically on the internet. The support for the Movement is international, with many signatures coming from Denmark, as well as Canada, the United States and the United Kingdom. The people who signed in Greenland, alone, constitute some 4.56 percent of the entire nation. By way of comparison, an equivalent percentage of supporters would represent 248,000 people in Denmark, 1,509,000 people in Canada, 2,764,000 people in the UK, and 13,613,000 people in the USA.

These large and impressive numbers represent good people who will want to buy the native gemstone ruby products from Greenlanders, as well as support the economic activity of traditional SSM by Greenlanders. The BMP should recognise the will of the people and allow the Greenlanders to participate in the Greenland ruby business.

It is wrong for the BMP to protect a ruby monopoly to the sole advantage of a foreign corporation, True North Gems, Inc. (TNG). TNG only has an exploration license, not an exploitation license, meaning that Greenlanders have every right under Section 32 to prospect any where on the Island for ruby or any other mineral. Despite this fact in law,

the BMP ordered the Greenland Police to detain and expel Greenlanders from TNG's exploration license on 16 August 2007, the date our movement galvanized in opposition to BMP's wrongheaded policies. We wish to state clearly that our movement is not focussed in True North Gems as a foreign mining company, but the BMP who impose laws that are anti small scale mining and therefore not in the interests of the Greenland economy as a whole.

The 16 August Union wants to continue to enjoy the same rights to ruby that our ancestors had, and to pass those rights on to our children.

The 16 August Union wants to participate in the international Fair Trade and Ethical Jewelry Movement by starting a small-miners association to encourage cottage industry at the village level in the traditional ways.

The 16 August Union wants Greenlanders to be free to make money with ruby and have the benefit of the revenues go to the people in the village, pay their taxes and royalties and thereby bring real economic benefit to the Greenland economy. To date as far as we are aware the Greenland economy has not received any form of royalty payment from LSM ruby activity, therefore it can be deduced that the current policy of denying Greenlanders their right to earn a living from selling ruby and other minerals is not in the economic interests of the Greenland economy.

The 16 August Union believes that SSM's and LSM's can co-exist peacefully, side-by-side, to the benefit of each other and the economy of Greenland. There is precedent for such collaboration today in Africa, where artisannal diamond miners are working placer deposits immediately adjacent to a kimberlite pipe mined by a large corporation.

The 16 August Union wants peace and prosperity in Greenland's ruby fields. For us, all of Greenland is Ruby Island. Kalaallit Nunaat is a rich land of ruby and diamond, platinum and gold, and home-grown jewelry artisannes who can put them all together in products that bring glory and honour to our people and our nation.

Unfortunately, BMP's Proposal will not achieve any of that. ***BMP's proposal will not even achieve what it is stated that it intends to achieve.*** The proposal is too bureaucratic and long-winded. It lacks contextual understanding of small-scale mining. The BMP have been constantly asked to disclose who they have consulted with in the SSM sector in drafting this proposal and they have not even given the courtesy of an honest answer, rather they have not replied. We must deduce from this behaviour that they have not researched the issue of SSM and this reality is reflected in the poorly conceived proposal now being presented to the Greenlandic people.

The Proposal will be too expensive and burdensome for the average Greenlander to use. In summary, the Proposal tries to treat SSM's like LSM's. Therefore, it is highly inappropriate for BMP to try to take away Greenlander's rights to ruby guaranteed under Section 32 and replace them with the restrictions of Section 7. See the Attachment below for a line-by-line analysis of the many issues we disagree with in BMP's Proposal.

16 August Union's Recommendations:

The 16 August Union recommends seven (7) things:

- 1) Article 32 is the appropriate section in the mineral code for our economic activity to be realised.
- 2) BMP must recognise that our ancient traditional rites are, in the modern world, an economic activity and therefore place no restrictions on them.
- 3) Greenlanders deserve the freedom to transform our goods and sell nationally and internationally without interference from government.
- 4) Greenlanders deserve the freedom to pay royalties or taxes on our sales, as in any economic activity as well as the confidential privacy of our clients and our business.
- 5) Realistic license areas and limitations on ground disturbance so as to differentiate and encourage small versus large scale mining, because small-scale mining is a more environmentally responsible form of economic activity appropriate to our fragile Greenlandic ecosystem.
- 6) BMP needs to create a system to register as a Traditional or small-scale miner.
- 7) Greenlanders will pay a registration fee that also includes and export licence unencumbered by restrictions on sales.

Concluding Comments:

BMP has broken the bond of trust with the Native Greenlandic people. It has become difficult for us to have faith in its ability to act with integrity and objectivity in regards to native rights. BMP's proposal amounts to economic discrimination. It seeks to isolate Greenlanders from the world economy and to prevent them from participating in the growing Greenland ruby business. BMP has no justification for suppression of real economic activity by Greenlanders and their friends.

Therefore, we are calling for a peaceful negotiated settlement to this dispute through a series of round-table meetings to discuss a fuller definition of Section 32, and the guarantee of the rights to mine minerals as traditional small-scale miners. We encourage the BMP to end their ethnic bias and hostilities against Greenlanders and their friends. We recommend that BMP involve international representatives of the Fair Trade and Ethical Gem and Jewelry movement, so that we benefit from the world's

experience. We challenge the BMP to support the very citizens they are supposed to serve, by providing a means for SSM's and LSM's to peacefully coexist and prosper for the benefit of all Greenlanders.

Greg Valerio
International Fair Trade Jeweller

On Behalf of the 16 August Union

Chairman, Inga B. egede

Secretary , Jens Mikkel Fly

Hans Møller

Tida Ravn

Niels E. Madsen

Attachment: Analysis of BMP's Proposal

ANALYSIS OF BMP'S SEPTEMBER 2008 PROPSAL

STANDARD TERMS FOR EXCLUSIVE LICENCES FOR SMALL-SCALE EXPLORATION AND EXPLOITATION OF MINERALS

The Proposal is inherently flawed in that it mistakenly equates the burdens and responsibilities of Small Scale Miners (SSM's) with those of large, well-financed Large-Scale Miners (LSM's), without granting the SSM's the protections and benefits routinely conveyed to the LSM's, specifically: Fairness and Exclusivity.

Specific points of concern by **numbered** paragraph in the Proposal:

205

The application fee of DKK 10,000, approximately US\$ 2000, is exorbitant, and will disqualify many legitimate applicants.

206

The application fee is non-refundable, even if the application is denied, essentially a punitive measure meant to discourage applicants.

207

Arbitrary power is granted to the BMP to reduce the applicant's Licence Area and thereby eliminate the intended ground, without providing a means of appeal.

209

Arbitrary power is granted to the BMP to remove areas open for application, or to demand special procedures, without providing a means of appeal.

302

Not more than one hundred (100) licence areas, each no more than 0.25 square kilometer, can be in force at any time. Therefore, the total area available to all applicants is only 25 square kilometers in the entire nation. That is an unreasonable and impractically small fraction of Greenland's total surface area.

304

Combining all applications received in the period from 1 July to 31 August into a single review group effectively eliminates the all-important summer season in the Arctic from effective prospecting, thereby using the calendar as a tool to deny applicants their rights to due process and fair treatment.

307

Paragraph 307 is poorly written, ambiguous, vague and unclear. It can be interpreted as an especially unhelpful and punitive instrument, on its own justifying the complete rejection of the entire Proposal. The true motives of the BMP are transparently suspect in Paragraph 307; to wit:

307a

307a allows the BMP to favour the wealthy and powerful, or the politically well connected, over the average citizen.

307b

307b allows the BMP to disqualify applicants who have previously prospected for ruby under Section 32, this arbitrary with no appeals process.

307c

307c permits blatant discrimination and favouritism to unfairly favour or disqualify candidates for the License based upon the transient politics of the BMP.

407

BMP's ability to force a "joint exclusive license" allows the government to force a joint venture between competitive parties regardless of their best interest. This is an anti economic policy.

504

BMP's attitude towards friends and allies of the 16 August Union renders 504 a subtle

means to isolate Greenlanders from world support by restricting their outreach. BMP should embrace international assistance to SSM.

605a

Restricting the licence area to a ridiculously tiny 0.25 square kilometer parcel is an unnecessary constraint that unfairly limits the rights of the applicants to compete against multi-national mining companies who are not so encumbered. This is unequal treatment of LSM's versus SSM's.

801

The Proposal does not specifically grant the right to prospect, recover, work and sell gemstones such as diamond, ruby and sapphire. Heretofore, the BMP has improperly advocated the obsolete terminology of "precious-versus-semiprecious" gemstones as a means to deny Greenlanders the rights to benefit from their honest labour. Such terminology is not recognized by relevant international institutions and it is considered fraudulent in court of law so should be removed from the dialogue entirely.

901

The applicant must pay an additional DKK 10,000 (US\$2,000) when the licence is granted, presenting yet another harsh financial impediment to the Greenlanders.

902

The applicant must pay an unspecified "fee" to the BMP. The ambiguity of said fee will discourage many legitimate applicants insofar as the uncertainty prohibits normal business planning. Said fee might be based upon a "royalty" even though no such royalties have been charged under Section 32.

1002b

1002b demands clarification of intent and due process. The ambiguity represents another potential obstacle to the applicant, preventing just exercise of rights and traditions granted and guaranteed under the Mineral Resources Act.

1003

1003 grants the BMP veto power over all or part of the applicant's license area, without providing a means of appeal.

1101b

1101b provides authorities means to conspire to remove applicants based upon trumped up charges or specious arguments. BMP's track record of hostility and discrimination against members of the 16 August Union indicates the agency cannot be trusted to fairly judge requirements without providing a means of fair and rapid appeal.

1101d

BMP's judgment as to the necessary expertise and financial background of applicants provides the agency with a means to artificially disqualify legitimate applications based upon transient political considerations.

1201

This Paragraph is intellectually ridiculous in that it unfairly burdens the applicant by requiring essentially the same Environmental Impact Review that would be demanded from a large, well-financed multi-national mining company proposing to open a major, world-class mine under an Exploitation Licence. Such requirement is utterly unrealistic and amounts to unqualified discrimination against the Greenlanders.

1302d

Helicopters and airplanes are conspicuous by their absence as a means of transportation permitted to the Greenlanders. This omission is an affront to anyone who lives and works and travels freely in Kalaallit Nunaat. It is also a blatant disregard for sustainable economic activity. It amounts to logistical restrictions against the interests of the Greenlanders. Life in the artic is not taken into consideration here and is another example of profound lack of knowledge of our Greenlandic context and its environment.

1402

1402 amounts to granting BMP the power of a "takings" of valuable property.

1505

BMP is authorized to demand posting of a DKK 100,000 (US\$ 20,000) bond for reclamation, just like a Large Scale Mining (LSM) Company. It is disingenuous to impose the same restrictions on SSM's as are placed on LSM's. This bond requirement will drive out native Greenlanders from the program. It is economic discrimination.

1603

The applicant is required to state total value of all minerals exploited, yet no mechanism is provided to determine value, leaving the Greenlanders open to persecution and prosecution by the BMP for supposed violations of a vague statute. BMP must specify the precise procedure for valuation.

1605

1605 is yet another tool granting the BMP power of a "takings" of private property.

1607

1607 is yet another tool granting the BMP power of a "takings" of private property.

1609

Under BMP's directives, the requirements to report under LSM format will pose an unacceptable financial hardship and unnecessary new burden on the SSM.

1702k

The motives of the BMP demanding to know the buyers of SSM's product are highly

suspect and a potential restriction on free trade. Is this same requirement made of LSM's holding exploitation licences? The need for this requirement needs to be justified because BMP has attempted to isolate and disempowered Greenlanders by restricting their access to the international jewelry industry.

1801

The requirement for the native Greenlander to reimburse BMP for its expenses is unacceptable. This requirement represents a "deal killer" in that BMP may arbitrarily set such a high price for its services that it bankrupts the SSM. The BMP's motives for such a statute are especially suspect, given the long-term hostility of the BMP towards the hopes and aspirations of the native Greenlanders prospecting for decades and generations under Section 32.

1802

What, specifically, are the expenses to be reimbursed? The language in the Proposal is vague and go to references in other sections in other acts that refer to yet more sections in still other acts. Clarity is demanded.

1902b

This paragraph must specifically allow the rights of the natives and their friends to publish information in any and all media.

2302

The need for an insurance policy is yet another "deal killer". It is unrealistic to expect a SSM to operate like a LSM, and it is exemplary of BMP's unhelpful and badly informed approach to the issue and burdens Greenlanders with costs piled upon costs piled upon costs with what appears to be the aim of defeating their ability to prospect as they have done satisfactorily for decades.

2602

2602 amounts to yet another tool to empower BMP for the "takings" of private property.

SUMMARY

Collectively, this analysis illustrates a recurring pattern of questionable behaviour and malicious intent by the BMP that is designed to defeat the very people and destroy the very purpose that the Proposal was supposedly written to serve. Given a more realistic time frame for consultation we are certain that a full transparent and open judicial review by native rights and natural resource attorneys will find even more points of contest to the thirty five (35) items identified above.

The Proposal, as written by BMP, poses

1. Suspect criteria for judging successful applicants

2. Unjustified limitations on size and number of Licences
3. Disingenuous tools to deter and disenfranchise Greenlanders
4. Harsh financial charges and penalties for Greenlanders
5. Unrealistic regulatory burdens equating SSM's with LSM's
6. Unacceptable tools for BMP "takings" of private property
7. Vague requirements to value minerals mined, manufactured and exported
8. Irregular mandates to identify downstream buyers
9. Barriers to international assistance effectively isolating Greenlanders
10. No right of appeal for incorrect rulings by the BMP

In conclusion, it is imperative that the Greenlanders be granted further time to discuss and debate this defective Proposal, and to offer a superior alternative. At the outset, the historic practice of Section 32 has been suitable for generations and should be considered case-law precedent until an even better vehicle can be created. Be advised that the international gemstone and jewelry community is in full support of the native rights of artisannal gemstone miners.

Fair Trade gem and jewelry is THE guiding principal in the business arena today. BMP's Proposal is in violation of both the spirit and letter of basic economic activity. There is ample resource in the global community experience for BMP to draw from to write good law that amplifies and reinforces the guarantees to rights and traditions held sacred in Section 32. Greenlanders have every reason to expect unfettered access to ruby and unrestricted opportunity to profit from their labour.