

16 August 2011

Inquiry into Greenfields Exploration & Project Development in Victoria

A Submission to the Economic Development and Infrastructure Committee;

By: Morning Star Gold NL (A publicly traded long-term industry participant)

Background

Morning Star Gold NL (ASX code '**MCO**') is a medium sized gold mining and exploration company. It was first listed on the Australian Stock Exchange (ASX) in 1989 in a former name but in essence has always been a company with mining and exploration of historic Victorian gold sites in mind. At the heart of its listing was the Morning Star Goldmine at Woods Point, which was once Australia's biggest gold mine in the 1940's when run by Western Mining Ltd. Currently MCO carries a market value or '*market capitalisation*' of \$80M. MCO has held mining & exploration licences in the historically significant Woods Point/Gaffney's Creek/Matlock areas since 1992 and has been actively exploring various sites since this time. In the past three years alone, MCO has spent over \$25M on re-establishing the Morning Star Goldmine at Woods Point as a producing gold mine, establishing significant infrastructure at site for safe and sustainable mining operations.

If is from the perspective of an active explorer and mine operator that we feel competent to provide this submission to the inquiry.

There are some terms of the terms reference for this inquiry which we have not addressed. This is due to either not being qualified to answer the questions or that we do not have a definitive position on the matter.

Victoria's Prospectivity

From all accounts, Victoria is well placed to be a highly prospective province for minerals, coal and extractive materials. This can be viewed from both the amount of historical production as well as the very prospective geology in a many areas of the state.

In terms of the nineteenth and twentieth centuries, Victoria was a very productive mineral province Today this state has world renowned deposits of brown coal and mineral sands, as well as encouraging potentials for gold and base metals.

Historically, Victoria was the home of one of the world's great gold mining developments. Even today, Bendigo remains as the seventh most productive goldfield in the world. Bass Strait gave Australia oil self-sufficiency for a number of decades. Castlemaine was the richest alluvial goldfield in the world. However, prospectivity is not in itself the only factor which needs to be considered. The ability to access prospective areas is of equal importance. Significant areas of

land in Victoria are unavailable for any exploration activity or are viewed as exceedingly difficult to do work on. Many of the historical Victorian Goldfields lie beneath the very cities which grew from their original position as goldfields. Bendigo, Ballarat, Maldon, Daylesford are all examples where the cities lie directly over the areas of previous production and this in itself makes exploration in these areas at the very least difficult and in some situation impossible.

However, of great significance is the amount of land that is not available for exploration under any circumstances. Direct prohibitions to mining or exploration prevent any activity of nearly one third of Crown land in the State as it has been locked up as state or National Parks or in other classifications which previous legislators have determined make exploration or mining incompatible with that land status.

The state remains under-explored and until much more exploration is conducted, the full mineral potential cannot be fully realised or even contemplated by stakeholders.

Denying access to explore so many areas, which would be viewed as geologically favorable, means that a complete understanding of the resources of Victoria will never be realised.

In so far as our own company experience is concerned, it is our assessment that the Walhalla – Woods Point – Gaffney's Creek belt has been historically very prospective and that there are considerable gold reserves and resources yet to be mined. As mentioned above, Morning Star Gold has spent in excess of \$25M in the past three years in developing the Morning Star Mine at Woods Point to the point of production as well as conducting both broad scale regional exploration and pre-production ore reserve assessment. Our exploration activities have been very encouraging and significant gold mineralization has been discovered on our tenements to date with more exploration and ore delineation works proposed.

The Regulatory Environment

The regulation of exploration and mining involves a labyrinth of various Acts and other regulatory ordinances. The primary piece of legislation which covers the industry, the Mineral Resources (Sustainable Development) Act 1990 (**'MR(SD)A'**) does little more than provide a system of mineral tenements on which the activities can take place. Over the past thirty years, there has been a major shift away from the overall industry focused position of the *'Mines Department'* to the very narrow role played by the Department of Primary Industry (**'DPIV'**), which is the agency administering the **MR(SD)A** today.

Many other agencies in areas such as planning, land administration, water, occupational health and safety to name just a few have taken power and statutory responsibility from what was the old Mines Department. They have added additional layers of regulation to the process.

The result of this shift of power has been a multitude of enactments which the mining and exploration industry has been required to comply with. There are well over fifty Acts which may have a direct bearing on any mining or exploration activity in Victoria. This regulatory framework is confusing, cumbersome and in some cases contradictory. It imposes a heavy burden of companies and individuals which wish

to operate in Victoria and we believe a primary cause of companies like MCO choosing to operate in other states or territories or indeed countries.

Some companies, like MCO have chosen to so operate, but a great number do not. They look to jurisdictions which are far friendlier to mineral investment and where the legislative pathways are far less complicated than here in Victoria. Mining companies and investors speak often of "country risk". In Africa perhaps this "country risk" might be seen as geo-political and might deter investment there. In Victoria, there is no doubt that investors and companies consider there is too much regulatory risk to operate successfully and in a meaningful way. Mining operations have very long gestation periods and much up-front capital needs to be expended before production let alone profits can be contemplated. Adding to this time line is the way in which companies like MCO have barriers of entry at nearly every turn to operate freely, responsibly and successfully in Victoria.

To see anything like a comparable level of investment and mining activity in this state compared to the rest of the Commonwealth, a single regulatory agency must be enacted.

There is certainly a perception from operators, small and large alike, that Victoria's regulatory regime is un-necessarily complex, time consuming and difficult to navigate through. It is a large deterrence for venture capitalists, mining entrepreneurs and Mum and Dad investors alike. Without all asset and risk classes investing, the business of mining & exploration will be unsatisfactory for all participants in Victoria.

The DPIV must regain the position of the primary regulatory agency.

In addition, the DPIV itself needs to significantly reform to establish a client focus, to be open and transparent in its dealings and to reassert the role of both regulator and industry facilitator.

Without these changes, Victoria will be left behind by more industry oriented states or foreign countries. The gap is widening even in the past few years. Victoria is being left behind.

Fees, Charges and Royalties

The *Mineral Resources Development Regulations 2002* set the majority of fees, charges and royalties applicable to the mining and exploration industry. In themselves, they do not place any insurmountable burden on industry although I am sure some sections, particularly relating to the small operators feel impacted by these charges.

It is often the fees and charges made from outside these regulations for such requirements as Native Vegetation offsets, other licences and permit or the high cost of compliance with such requirements as Environmental Impact Assessments or Indigenous Cultural Heritage Studies are considered unreasonable.

For example, the cost of incurred to clear one hectare of native vegetation in the Box-Ironbark region is (according to VEEC) in the order of \$150,000 per hectare. EIS

studies will exceed \$500,000. The bond on a substantial mining operation could well be in the order of \$1M. These costs are all incurred at the start of the project where there is the greatest demand on capital. Similarly, the sheer number of permits, licences and authorities that are required can be quite daunting.

National and International perceptions

As has been stated above, in our opinion there is a strong sentiment among explorers and developers that Victoria is a difficult place to operate a mining focused business looking to grow and be competitive. This is much less to do with the prospectivity of the state than the regulatory environment.

It must also be said that there are other factors. The size of the state and its comparatively large population and the growth of semi-rural living in the 100km radius of Melbourne have made operations in a number of the known goldfields difficult. Exploring in an environment where the landscape is dotted with 5 hectare hobby farms is not easy and it certainly brings consternation of the land holders that their properties may be engulfed in or adjacent to a major mining operation.

To be fair, Victoria does have many advantages. It has a developed infrastructure providing communication, transport and energy facilities readily available to much of the state. It has had a residential skilled workforce and does have sophisticated manufacturing facilities close at hand giving this state a nice advantage. However much of the mining & exploration skilled workforce which may once have been based in Victoria has been sucked across the country to Western Australia and up to NSW and QLD over this current 'mining boom'. The labour market right now for mining & exploration technicians in Victoria is 'drum tight'.

Yet the reality of an examination of exploration investment in Victoria is that, considering its geological potential, there is proportionally **much less** money being spent here than in other mineral provinces with equal, or even less, economic potential.

A Way Forward

Morning Star Gold appreciates that there will always be highly complex problems produced when seeking to resolve issues of competing land uses.

We are of the view that a number of comparatively simple legislative, policy and administrative initiatives should be undertaken that would arrest the current flight of exploration and development capital from Victoria.

Presently the Victorian approach is widely regarded by industry participants and investors alike as "all talk no action". Here are some simple solutions based ideas from MCO:

1. The Minerals and Petroleum Division of the Department of Primary Industries should be the lead agency for the regulation of the exploration and mining industry for this state. There should be legislative change to empower the DPIV

(in consultation with the other agencies) to licence and regulate all activities associated with exploration, mining and extractive activities.

2. The DPIV should be seriously 'resourced' in order to be a help and not a hindrance to industry. We perceive at this moment in time that the Victorian Government's apathy towards mining & exploration in the state has permeated the DPIV through inadequate funding, which ultimately leads to the lack of retention of people who can make a difference for the DPIV and make it more efficient. This causes time delays and cost blowouts for industry participants over simple regulatory issues. 'Time is money' as we know.
3. The current Mineral Resources Development Act needs to be reviewed to provide an appropriate legislative framework to foster and encourage exploration and mining activities. This must be conducted in close co-operation with industry. The current program of legislative reform which was initiated by the previous government has done little to assist the industry. There are a number of areas where the results of the new legislation have produced highly undesirable consequences.
4. The current prohibitions on land available for exploration and mining activities be reviewed to allow multiple land use and that the areas subject to absolute ban of these activities be reduced to an absolute minimum. Any such prohibition must meet a triple bottom line of a full consideration of the economic, social and environmental impacts of any activity or its prohibition.
5. The Department itself is in need of a major reform in its processes, its lack of client focus and its accountability. The position of the Mining Warden should be strengthened to improve accountability and transparency. Its role as a facilitator as well as a regulator needs urgent attention. The Department should provide not only an industry wide facilitation but also on a project by project basis.

Morning Star Gold NL (MCO) would be pleased to address the committee and give evidence at a hearing if the committee felt that we would be able contribute to its deliberations and a positive outcome for the state of Victoria. We feel strongly that this committee's terms of reference would not have come about unless there was multi-lateral need and acknowledgement for a change for the better.

Yours Sincerely,

Nick Garling



Executive Chairman
Morning Star Gold NL
(ASX: MCO)

Noel Laidlaw

Non-Executive Director
Morning Star Gold NL
(ASX: MCO)

Biographies of Morning Star personnel making this submission:

Executive Chairman - Nick Garling

Nick Garling has been involved with Morning Star Gold (MCO) since 2003 and is the company's largest shareholder with a 15% stake. His father was involved with gold mining in Victoria going back to the 1970's until 2006 primarily with the A1 Mine at Gaffney's Creek and the Morning Star at Woods Point. Prior to his involvement in MCO, Nick worked in investment banking and stockbroking for 24 years in areas concerning equity capital raising, asset disposal, and structured derivatives after studying Law at Sydney University. Nick spent 12 years in the 90s/00s in Tokyo & Hong Kong with UBS Warburg & Lehman Brothers where he was a Managing Director of UBS's Equity Markets Group and before that, a Managing Director of Lehman's Asia-Pacific Equity business.

Non-Executive Director - Noel Laidlaw

Noel Laidlaw is a mining engineer with over 30 years of experience in narrow vein underground mining and also with relevant experience in gold processing operations and metallurgy. Until recently Noel was the State Mining Warden of Victoria, appointed to oversee mining disputes and regulatory issues in Victoria and to assist the Minister and entities involved in mining in Victoria in administering the Mineral Resources (Sustainable Development) Act, 1990. Noel has significant experience in areas including project management and facilitation, stakeholder/tenements negotiation, knowledge of the MR(SD)A 1990 & the accompanying regulatory framework and project compliance.