Holding Ground:

Indigenous Jurisdiction as Critical Infrastructure

Infrastructure Beyond Extractivism

RAVEN

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About Infrastructure Beyond Extractivism

The Infrastructure Beyond Extractivism (IBE) project is a SSHRC-funded Partnership Grant housed at York University. It is led by Dayna Nadine Scott (Osgoode/EUC, York University) and Heidi Kiiwetinepinesiik Stark (CIRCLE, University of Victoria). The IBE project aims to develop an agenda for fundamentally remaking socio-technical systems for an anti-colonial and radically just transition. It is about conceptualizing and building infrastructure that restores and revitalizes Indigenous territorial governing authority or "jurisdiction."

To learn more, visit jurisdiction-infrastructure.com.

This report was written on Treaty No. 13 lands and the territories of the Mississaugas of the Credit First Nation, the Huron-Wendat, the Haudenosaunee, and the lands of the Anishinabek of the Williams Treaties First Nations. This report was designed on the unceded, unsurrendered territories of the lək̓ʷəŋən People (Songhees and Xʷsepsəm/Esquimalt Nations) and W̱SÁNEĆ Peoples.

This report presents an argument that restoring Indigenous jurisdiction—the deliberate, collective and cooperative practices of taking care of the social, political, economic and cultural life of communities—*is* an investment in "critical infrastructure." Indigenous nations have consistently asserted and maintained their governing authority over the lands and waters despite settler state attempts to undermine and erase it. As Heidi Kiiwetinepinesiik Stark conceives of jurisdiction, it is "political practice", grounded in place, and "conditioned by relationships and responsibilities."[1]

In Canada's current "build, baby, build" moment, we are witnessing a dramatic retrenchment in environmental law. Canada's renewed push to fast-track extractive projects reproduces longstanding colonial logics that privilege resource development over Indigenous jurisdiction, reviving patterns that have long strained relationships with First Nations. In doing so, the new government of Prime Minister Carney risks echoing the very practices it has criticized in the Trump administration—namely, weakened environmental oversight, the sidelining of Indigenous rights and abandoning of consent, and the concentration of executive power in the name of economic urgency—exposing a contradiction that could deepen conflict and further erode Canada's national and international standing.

Instead, we argue that Canada should turn *towards*, rather than away from, Indigenous jurisdiction in navigating this shifting global order, recognizing that Indigenous jurisdiction itself constitutes critical infrastructure for both economic resilience and genuinely secure futures. By investing in and supporting Indigenous vital infrastructures—rooted in relationships to land, law, and community—Canada can move beyond extractive models and open space for forms of prosperity and innovation that remain largely unimagined within state-led approaches. We demonstrate that existing infrastructure, such as road, railway, and abandoned mining sites, could be reclaimed and repurposed by Indigenous communities to restore actual "critical infrastructures"—those that benefit people (instead of corporations), advance the energy transition, and support the restoration of Indigenous jurisdiction in relation to lands and waters.

INTRODUCTION

Indigenous relationships to lands and waters are embedded in stories, language, and practices. These relationships give rise to responsibilities and obligations, which are animated through legal traditions and governing structures. Yet, Crown failure to implement treaties in accordance with the original spirit and intent of these nation-to-nation agreements, settler drives to dispossess Indigenous nations of their lands, and state-imposed paternalistic legislation intent on stripping Indigenous peoples of their political authority and severing their relationships to their lands and people, have deeply impacted Indigenous law and governance. Additionally, the cumulative impacts of extractive industries have been disproportionately felt by Indigenous nations, concentrating environmental and social harms on Indigenous lands while undermining the very jurisdictions that could sustain alternative, land-based infrastructures, intensifying Indigenous efforts to restore the inherent jurisdiction of their nations.

At the same time, economic instability and a "New World Order" are fueling an aggressive and possessive nationalism that further threatens Indigenous authority.[2] Moreover, Indigenous resistance to state-backed extractive projects led by land and water defenders has been met with a militarized political response by the Canadian state. Amidst staunch, ongoing critiques of state reconciliation efforts and failure to meaningfully implement the *United Nations Declaration for the Rights of Indigenous Peoples (UNDRIP)*, many Indigenous scholars and land defenders are urgently reviving calls for the recognition of Indigenous nations' political authority and respect for Indigenous laws.

LandBack and JurisdictionBack are social movements propelled by these aims.

The Report's title, *Holding Ground*, references the long-standing efforts by Indigenous nations to maintain their relationships and responsibilities across their territories that give shape and meaning to Indigenous governance in the face of state drives to usurp their lands and authority. It also highlights the sense that what little recognition of Indigenous jurisdiction had been gained during the reconciliation era – as Canada inched away from its commitment to unilateral state approval for extraction projects in the face of Indigenous resistance – may now be lost. The trajectory has turned sharply back to 'nation-building' and expanding Canada's economy, a return to the days of 'railroading' over Indigenous nations. In the wake of the tariff war and Trump's threats to annex Canada, we are in grave danger of going "off the rails."

The present moment is one in which economic expediency and 'national security' concerns are overriding meaningful commitments to reconciliation. Federal and provincial legislative agendas, especially in relation to fast-tracked permitting and 'cooperation' in environmental assessment, are increasingly inconsistent with court decisions and on-the-ground governance practices that were invested, to a limited extent, in consent and relationship building (even if deeply constrained and fraught). Instead, Indigenous rights are now being openly disregarded as Canada, under Prime Minister Mark Carney, is headed full speed back towards an economy based on the same unsustainable and corrosive extractive practices that produced earlier crises.

This report is connected to the ongoing Infrastructure Beyond Extractivism (IBE) project, co-led by Dr. Heidi Kiiwetinepinesiik Stark (Turtle Mountain Ojibwe) and Dr. Dayna Nadine Scott (settler). The IBE project brings together Indigenous and settler scholars, academics, land defenders, and knowledge holders in active collaboration. Recognizing that the examination of Indigenous law and jurisdiction must be grounded in place, we draw from a larger report authored by IBE post-doctoral fellow Sophia Jaworski and published on the IBE website. From this, we generate new ideas about what kinds of infrastructure might be conceived of as 'beyond extractivism', in line with re-building Indigenous jurisdiction.

Sophia's report considered the regional, cumulative effects of mining extractivism historically in Ontario, and we find it timely to draw attention back to these themes in this moment of intensified, and unprecedented pursuit of mining justified in the language of critical minerals. Today, the urgency of the extractive project comes less from the climate emergency and more from global instability and a desire by capital and the state to benefit from an increased demand for minerals and metals to support militarization and 'defence readiness.'

For these reasons, we think it is a useful time to re-think who "critical infrastructure" actually serves.

Part I: The Concepts

"Keywords" for building *Infrastructure Beyond Extractivism*[3]

What is "Critical Infrastructure"?

Critical infrastructure, in the eyes of the settler state, is infrastructure that enables circulation that benefits capital. It includes highways and bridges, power plants, pipelines, airports, and telecommunications systems. But as Deborah Cowen has shown, "infrastructure has been not just a feature of settler colonialism, but the face of colonial violence."[4]

Perhaps the most iconic example of settler infrastructure as colonial violence is the Canadian Pacific Railway. While Canadian Confederation could only be lawfully achieved through treaties with Indigenous nations, Canada subsequently failed to implement these political relationships that outlined visions for how to live in a multi-national terrain and instead imposed paternalistic policies over Indigenous lands and peoples, diminishing Indigenous political authority and jurisdiction.[5] As Cowen notes, state infrastructure was essential for state-building:

> *The first Prime Minister, John A. MacDonald, known to "govern through a philosophy of railroads," called the transcontinental railroad Canada's "spine." Colonies of British North America joined Canadian confederation on the condition of the construction of rail infrastructure. The Dominion required rail, but rail required legal jurisdiction to be built. Infrastructure materially made the Canadian state possible, but in a circular move, it was the Canadian Constitution that provided the federal government's jurisdiction for building it. Through a mobius strip of colonial law and infrastructure, settlers granted themselves authority to have authority.*[6]

Our project challenges mainstream discourse about what counts as 'critical infrastructure' by asking what it is for and who it serves. What really is "vital" infrastructure and for whom? As Cowen notes, infrastructure is "not inherently colonial, but rather essential for social and ecological transformation."[7] And so, "[a]lternative worlds require alternative infrastructure – systems that allow for sustenance and reproduction."[8]

What is Critical Infrastructure Really?

Infrastructure that is truly 'vital' is life-giving infrastructure that enables circulation to benefit people and all that we rely on and take care of. As Carcross Tagish/Tlingit scholar Anne Spice says,

> *"Alternatively, when we're looking at maintaining good relations with our lands and at the ways that infrastructures – our infrastructures – are a part of those relations, we can also imagine a different future."*[9]

What is "Jurisdiction"?

Jurisdiction is conventionally understood as the power to make binding decisions in respect of certain matters. Indigenous jurisdiction is conceived here, following Heidi Kiiwetinepinesiik Stark, as a form of political governing authority that derives from a relationship to place. It is in-relation and accountable to others, including specific lands and waters. Exercises of jurisdiction include the deliberate, collective and cooperative practices of taking care of the social, political, economic and cultural life in communities. Jurisdiction is a system that is defended and maintained by a collective of kin despite settler state attempts to undermine and erase it.

But as Shiri Pasternak has demonstrated, Indigenous nations are also effectively pushing back on settler state attempts to dispossess them of their territorial political authority by working the "machinery of jurisdiction."[10]

Here we offer ideas for revving the gears and adjusting some gauges to get this machinery working for Indigenous nations.

What is "Extractivism" and how do we get beyond it?

As W̱SÁNEĆ legal scholar Robert YELḰÁTŦE Clifford says,

> *"We have much to gain in remembering that we already hold many insights within our communities, laws, languages, stories, relationships, and governance structures, which can help guide us forward."*[11]

Extractivism is an organising logic. According to Dayna Nadine Scott, it is "best conceived not as an activity or a thing, but as a relation or a logic."[12] If "extraction" is the act of taking from the land – timber, oil or minerals – extractivism is a form of taking at a high pace, over a large scale, and is relentless. It relies on continuous appropriation and depletion. It is non-reciprocal and thrives on the subjugation of life.

Extractivism is also characterized by a recklessness in terms of the mess left behind in its wake. Any 'benefits' that may be generated through the extraction are flowed immediately away to distant peoples and economies. Not only does the 'need' for the taking not come from the political community tied to the lands and waters of the place, but an extractivist orientation means that the taking can proceed even when those people oppose it. In this way, settler law enables and maintains extractivism.

Moving "beyond extractivism" is about centering Indigenous ways of knowing and worldviews, while honouring the place-based nature of Indigenous law and jurisdiction.[13] Moving beyond extractivism means rejecting hierarchy and assumptions of dominion over the more-than-human, and embracing approaches that emphasize reciprocity and responsibility.

How might struggles for JurisdictionBack in relation to built infrastructures such as road, railway, and abandoned mining sites support a transition away from extractivism today? How can we build infrastructures that are not "vehicles of domination" but are instead "means of transformation", as Deb Cowen encourages? How can we ensure these reclaimed infrastructures are grounded in relationships? And in our efforts to build up infrastructure, can we also enable repair?

Part II: The Examples

Restoring Indigenous Jurisdiction Through Solutionary Road, Railway, and Abandoned Mining Infrastructure?

As Sophia Jaworski's report makes clear, infrastructures of extractivism in the 20th century depended in large part on Indigenous dispossession, as they were based on assumptions that the settler state could unilaterally provide unfettered access to lands and resources across the country. An example would be the "free-entry" mining regime, which, despite ongoing challenges, remains in place today.[14]

Considering the "solutionary" potential of historical road, railway and abandoned mining infrastructure is a practice of imagining how "connections forged through the violent infrastructures of relations of rule may become the connective tissues of alternative futurities if they are occupied differently."[15] The idea is that repurposing historically underused or abandoned infrastructure could potentially support a just transition from colonial infrastructure to Indigenous vital infrastructure.

In thinking through these questions materially, we consider here how solutionary road, rail, and the re-claiming of abandoned mines might be vehicles for restoring Indigenous jurisdiction and relational modes of living that attend to lands and waters and hold potential for climate reparation.

What are Solutionary Infrastructures?

Solutionary infrastructures solve problems for people, not capital. Infrastructures might be reclaimed and repurposed by Indigenous Nations to:

- Generate renewable energy;
- Improve connection within and across territories;
- Enable the responsible sourcing of minerals and metals from mine tailings;
- Kickstart the decolonization of roads and railways to enhance the movement of people and things in ways that are grounded in Indigenous authority and relationships to place.

Can they also repair past harms?

Climate reparations are measures that aim not only to mitigate GHG emissions or enable adaptation to climate chaos, but also to begin to repair the harms and damage that has been done in the climate crisis. Approaching new measures through the lens of reparation means centering how histories of transatlantic slavery, imperialism, and settler colonialism have channelled and concentrated the harms associated with climate change onto racialized and Indigenous communities, here and everywhere.

Solutionary infrastructures can support forms of JurisdictionBack that respond to these histories. They speak back to the "architectures of theft" that led to land alienation across Indigenous territories[16] while simultaneously building new forms of vital infrastructure that support Indigenous life.

A recent report by Sacred Earth Solar states:

> *"the climate crisis will require the transformation and undoing of colonial relations and structures in Canada. This will require a deep and broad relinquishment of power from settler colonial structures and systems to ensure meaningful co- creation of climate policy that is rooted in Indigenous self-determination."*[17]

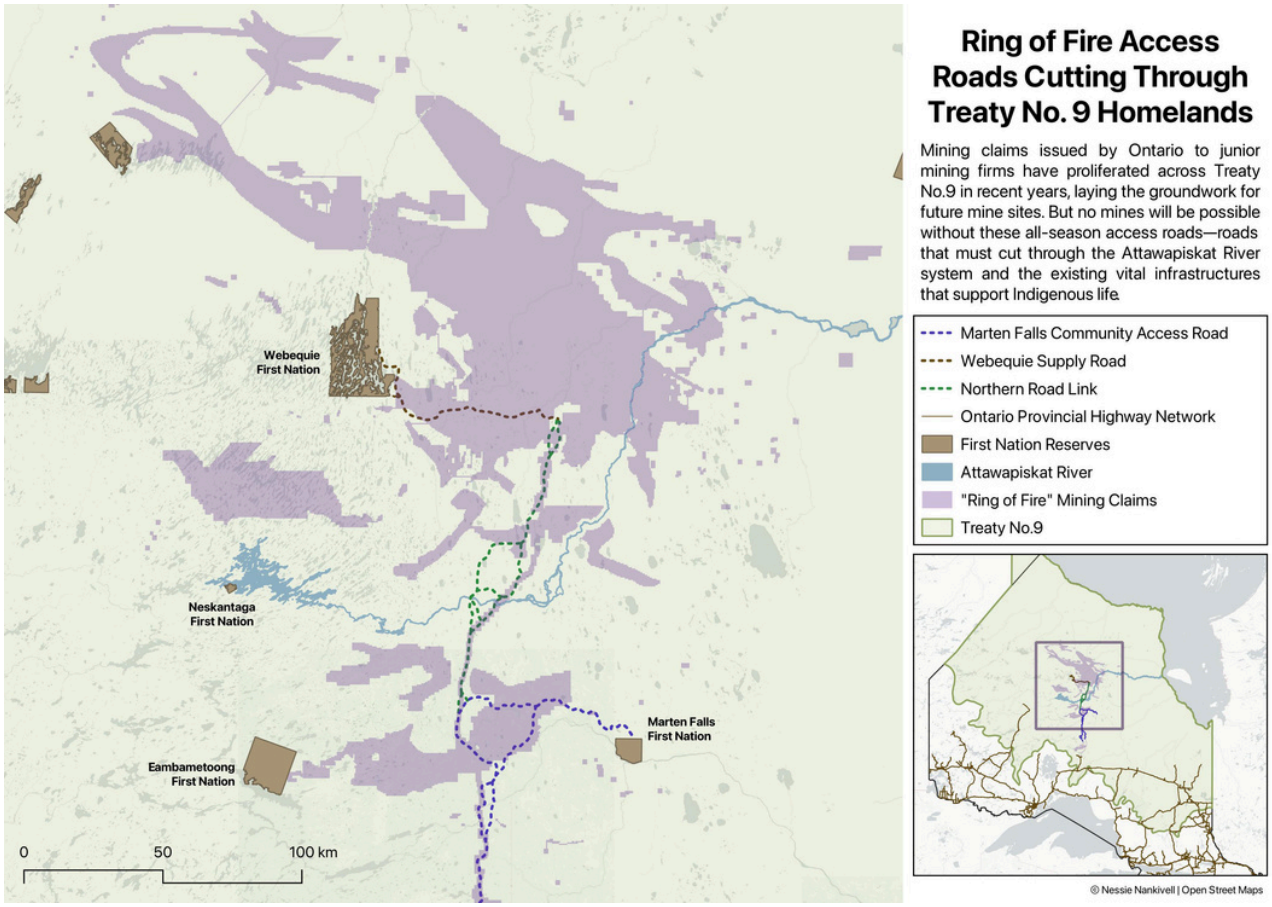
Furthermore, in addition to attending to ecological harms, the socio-cultural, economic, embodied, and spiritual impacts of extractivism must be accounted for as part of our efforts to restore Indigenous jurisdiction.[18]

Solutionary Roads

Access roads for extraction – "colonization roads" – cut across Indigenous critical infrastructures, including rivers, streams, lakes, forests, and places of harvesting, medicine gathering, and sacred significance. In Ontario, there are over 19,500 kilometres of active "public forest access roads," and thousands more used, and abandoned by, extractive industries. Both active and abandoned roads are used by prospectors to access Indigenous lands for mineral exploration, but they are also often unevenly maintained, meaning that even though they criss-cross Indigenous territories and disrupt relations with lands and waters, they are also often unavailable for community use.

This creates what technoscience, empire, gender and sexuality scholar Silas Grant, in work with Dine communities, has called "gridlock" that interferes with the ability of the Dine people to reproduce and maintain their own vital infrastructures, including relations with land, even as it "constrains Dine mobility."[19]

Roads have featured prominently in expressions of Indigenous peoples' inherent jurisdiction in Canada from land defence blockades,[20] the governance of logging roads at Grassy Narrows, or co-management frameworks such as the Barriere Lake Trilateral Agreement.[21] In this section we ask how roads might be taken up as Indigenous critical "infrastructure beyond extractivism?"



Example: The Roads to Ontario's "Ring of Fire"

The Ring of Fire refers to a significant deposit of minerals in Ontario's far north, in Treaty No.9. The area where the deposit lies is currently roadless peatlands and muskeg in the Attawapiskat river system. The need for new roads to "unlock" the mineral potential of the Ring of Fire is emphasized by the settler state through the language of "critical infrastructure". In this framing, the access roads are presented as a practical and inevitable next step that is necessary to connect remote communities, secure domestic supply chains, enhance critical mineral output, and thrust Canada towards economic sovereignty. The Ring of Fire has been positioned for over a decade as essential to Ontario and Canada's economic future, while Indigenous jurisdictional claims have been confined into narrow consultation processes.

The fast-tracking of these roads is based on the settler state's assumption that Treaty No.9 lands must be available for settler futures. Roads become the first material step in transforming the territory into an extractive corridor. But extending far beyond transportation and connection, this road infrastructure becomes a colonial tool that re-inserts settler authority and reorganizes lands and waters, and relations around mining. Within this logic, rivers, lake sturgeon, muskeg, animal habitats, Indigenous harvesting areas, and sacred places are treated as obstacles to development. The settler state casts itself as the rational caretaker of the public good in pursuit of progress, while Indigenous jurisdiction and defence of actual vital infrastructures is framed as obstructionist and against the national interest.

A solutionary approach to roadwork begins from a different understanding of what this infrastructure is intended for and what it should sustain. Rather than fixating on how road corridors can make extraction, access, and capital flow more efficiently, solutionary roadwork offers a radical departure by asking how road networks might support cross-territorial movement and connection in ways that are attentive to Indigenous authority, continuity, and responsibility. Indigenous law, relational responsibilities to land, water, and non-human relatives, harvesting practices, and community decision-making are some of the essential factors that must guide solutionary road networks.

The shift from an extractivist road network to a solutionary one is best captured by Eva Jewell's anti-colonial feminist care ethic, which argues that care is highly politicized and intrinsically linked to the social and political reproduction of worlds.[22] Applying this to the construction of new roads means asking what kind of world is being reproduced through this infrastructure. State-led roadwork reproduces settler colonial conditions by making Indigenous lands available for extraction while settler governments claim ultimate and unilateral authority. Alternatively, solutionary roads directly address the needs of Indigenous peoples living in the region, not far-away investors, supporting what Jewell would describe as a "spiritual, cultural, and ontological reparative project."[23]

When affected Indigenous nations oppose road construction, such as the roads leading into the Ring of Fire, they are not simply anti-development. Rather, they are defending the conditions through which their distinct legal orders, relationships, and responsibilities can survive. They are defending their own critical infrastructure.

Solutionary road networks are one example of a larger movement away from opening land for capital and toward something new, grounded in Indigenous ethics of care, restoration, and jurisdiction.

Solutionary Rail

Solutionary rail is an idea that involves the electrification of existing railway corridors and the use of corridors to develop renewable energy generated locally, which can then be sold to benefit local community economies.[24]

Our purpose here is to generate interest in thinking about solutionary rail as a way of building infrastructure differently, keeping in mind that railways have historically functioned as a tool of settlement, extraction, and Indigenous dispossession.

First, then, it is necessary to confront rail's colonial history in Canada. Rail was framed as the infrastructure that would deliver economic prosperity and modernization by connecting the east coast to the west coast. The Canadian Pacific Railway Act of 1881 formally incorporated the Canadian Pacific Railway Company (CPR) to build and operate a 2,700-mile transcontinental railway. Article 12 of the Act stated: "The Government shall extinguish the Indian title affecting the lands herein appropriated."[25]

The language makes clear that the railway was also a jurisdictional project that depended on the denial of Indigenous title while asserting Crown authority over Indigenous lands.

Rail not only claimed and divided Indigenous lands for settler purposes, but also destroyed Indigenous infrastructures. As mountainsides were blasted en route to the coast, traditional fishing eddy sites along the Fraser River were wiped out, examples of Indigenous infrastructure that were integral not only as a food source, but as important sites of law and culture. This denegation continued on Vancouver Island, where the Island Railway moved through multiple Indigenous territories while ignoring Indigenous jurisdiction and laws. The railway was not only a "Great Land Grab," but also served as a conduit for forestry, agriculture, and mining projects that still actively hinder Indigenous vital infrastructures today.

And now, many of these rail lines across Canada lie abandoned. In the process, they often become reconfigured into private property.[26] What remains are corridors that continue to scar Indigenous territories even when they no longer serve the communities whose lands they occupy, leaving behind a legacy of damaged lands, contestation over title, contamination, and legal burdens all created by infrastructure the impacted Indigenous nations did not consent to.[27]

Can infrastructure historically designed to erase Indigenous jurisdiction be re-purposed to restore vital Indigenous infrastructure, if designed, controlled and owned by Indigenous nations themselves?

Consider the Keewatin Railway Company in northern Manitoba, an abandoned rail line purchased by Tataskweyak Cree Nation, Mathias Colomb Cree Nation, and War Lake First Nation in 2006 that now provides access to remote communities.

The Keewatin Railway Company offers an important starting point for thinking about Indigenous ownership and decision-making authority over abandoned railway infrastructure, showing that railways can be reclaimed from settler-capitalist frameworks and repurposed around community access and connection.

How can solutionary rail support and protect other forms of Indigenous critical infrastructure?

Each individual community will answer this question differently, but it presents an opportunity for critical analysis of how and/or whether infrastructures can shift and change across divergent legal orders and cultures.

In British Columbia, where a vast amount of Indigenous territories remain outside of formal treaty relationships, these struggles remain ongoing. Snaw-Naw-As First Nation filed a claim against the Crown in 2015 to recover reserve lands occupied by an abandoned rail corridor that had been expropriated in the early twentieth century. After multiple court rulings, the province returned the land in 2023 and acknowledged that any future use of the corridor must involve First Nations participation.[28] Snaw-Naw-As First Nation has since been forced to pursue reparation through the colonial court system to seek funds to remediate the abandoned railway.

Solutionary rail can challenge settler assumptions about the right to access and benefit from Indigenous lands, but only if it is shaped by the Indigenous nations whose territories these corridors cross.

Decisions about whether a corridor should be repaired, removed, repurposed, or left alone must come from the nations whose lands were taken for it. In this way solutionary rail could mobilize historically colonial infrastructure to support the resurgence of Indigenous law and the restoration of Indigenous nations' inherent jurisdiction.

Solutionary Mining Infrastructure?

Could the solutionary approach be applied to abandoned mining infrastructure, as well? If so, should it?

Here, we will take Ontario as the example. Ontario has over 4,600 abandoned mine sites, including hundreds of tailings and waste rock sites with mineral recovery potential. Historical mining practices left significant quantities of ore, including many now classified as critical minerals, in waste piles. These toxic legacies are now being recast by industry as new extractive opportunities, often with limited recognition of Indigenous jurisdiction over lands already subjected to intensive extraction.

In 2025, Ontario's Recovery of Minerals regulation (O. Reg. 463/24) came into force. It requires proponents seeking to profit from "re-mining" to secure permission from the mining claim holders, but not from affected Indigenous nations, whose involvement, according to Ontario, will remain limited to the broken consultation process initiated at the discretion of the Ministry of Mines.

By casting mine waste as a resource under the disposition of the Crown, the regulation again normalizes an attitude that treats Indigenous lands as a container for settler waste.[29] It does not acknowledge the way that tailings, slag heaps, and other waste dumped by mining companies has perpetuated cumulative harms that continue to shape land, water, and Indigenous ways of life.[30]

For example, there is an estimated $10 billion in recoverable metal value in Canadian gold mine waste alone, with researchers suggesting that up to 80 percent could be recovered.[29] Canada has roughly 10,000 abandoned mines and 200 active operations, where tailings are ubiquitous.[31]

But this also presents an opportunity: re-mining challenges the conventional view that mining is a frontier activity premised on endlessly "breaking new ground."

It could instead be pursued according to circular economy principles. It raises questions about what it might mean to return to the material and place-based consequences of historic extractive pollution and attempt to "re-gain lost ground" through the repair of lands and waters and a restoration of reciprocal relations.

However – re-mining is advancing ahead of transparent public accounting of where, for whom, and under whose jurisdiction such recovery should occur.

Thus, while we agree with some of the policy recommendations now coming forward, namely that calls to recover mine waste should be part of a circular and low-carbon economy – we caution that more attention should be paid to who actually owns these valuable minerals now. Indigenous peoples

on whose homelands these wastes were discarded should lead the reclamation of minerals and restoration of lands.

We believe minerals should be recovered primarily to restore the land and relationships, second for an energy transition that benefits people, and third to repair the damage caused.

Would revisiting abandoned mines and tailings offer a more sustainable way of obtaining the minerals needed for the energy transition?

Some researchers are increasingly investing in "re-mining" existing tailings through a process called "bioleaching"; the use of bacterial strains to reprocess discarded ore that still contains economically viable minerals.

But use of bioleaching does not guarantee remediation, or bioremediation (such as emerging research that uses a mine site's bacteria, a matrix material, and food to create "bioreactors" for water treatment).

If specific bacterial strains are used instead of chemical reagents, could bioleaching reduce pollution? Given that re-mining targets landscapes already profoundly altered by waste piles, and toxic mine tailings, could these processes produce meaningful ecological repair?[32]

Understanding whether bioleaching is genuinely restorative, and, if so, whether re-mining can be governed by Indigenous jurisdiction to prioritize bioleaching over chemical processing, is essential if it is to be positioned as an alternative to conventional chemical re-mining that can protect other forms of Indigenous critical infrastructure.

If re-mining is going to expand in the future, does it present an opening for Indigenous communities, as part of JurisdictionBack or a reparations approach, to lead these processes, benefit from them, and guide their relationships to mining extractivism?

We are interested in exploring what "re-mining" could mean if it was re-imagined for a circular economy purpose, to reclaim Indigenous jurisdiction.[33]

If there is "value" in mine tailings that have been abandoned by mining companies that considered them only 'liabilities' they could dump on Indigenous lands at the time, then surely Indigenous communities should be able to recover that value now, in order to direct it towards the restoration of their own vital infrastructures.

Conclusion: Indigenous Jurisdiction is Critical Infrastructure

This report has advanced the argument that the re-establishment of Indigenous jurisdiction should be understood as a form of critical infrastructure. Indigenous nations have long continued to exercise governing authority over their territories and relationships to land and water despite sustained efforts to suppress and displace those systems. For Indigenous nations, jurisdiction is not simply a legal category, but an ongoing political practice rooted in place and shaped through reciprocal responsibilities and "ontologies of care."[34]

Within Canada's current "build, baby, build" agenda and accelerated push to advance major development projects, we are also

witnessing a renewed weakening of environmental protections. This expansion of extractive activity continues longstanding colonial patterns that prioritize resource development over Indigenous jurisdiction, repeating approaches that have placed sustained pressure on First Nations' lands, waters, and governance systems.

It also exposes a contradiction in federal policy, where commitments to reconciliation and environmental responsibility sit uneasily alongside efforts to expedite extraction through reduced oversight and constrained consultation.

Against this backdrop, the restoration of Indigenous jurisdiction and governance offers not an alternative add-on to existing systems, but a critical reframing of approaches for addressing the climate crisis, advancing the energy transition, and strengthening long-term political partnerships. Indigenous legal orders and governance systems generate place-based, adaptive, and relational approaches to land and water governance rooted in sustainability. Framing Indigenous jurisdiction as critical infrastructure highlights its capacity to structure economies, guide land use, and support climate solutions that move beyond extractive logics toward regeneration and continuity.

Existing infrastructure—including roads, railways, and abandoned mining and industrial sites—can be re-envisioned through Indigenous jurisdiction as sites of transformation rather than extraction. Under Indigenous governance, these systems can be repurposed to support the restoration of lands and waters, low-carbon transitions, and community-driven development, redirecting infrastructure toward public and ecological benefit. In this sense, restoring Indigenous jurisdiction is not only a matter of governance or rights, but critical for reconfiguring infrastructure itself to meet the demands of the climate crisis, restoring our responsibilities and relationships with the lands and waters and ensuring sustainable futures for all.

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[25] *An Act Respecting the Canadian Pacific Railway*, SC 1881, c 1, s 12.
[26]Gorys, Julius M. L., Bryan Howard, and Robert C. Wolvin. "The Acquisition of Abandoned Railway Rights of Way for Existing and Future Public Uses." Right of Way, October 1993, 12–18.
[27] Sarah Morales, Estair Van Wagner & Michael Ekers, "From 'Private' Managed Forest Lands to Sts'lununts'amat Forest Relations: Indigenous Jurisdiction, Ecological Integrity, and Fee Simple Title on Vancouver Island" (2024) J Ecology, Law and Place
[28] *Snaw-Naw-As First Nation v Island Corridor Foundation, 2020 BCSC* 948 (BC Supreme Court, dismissed June 2020), aff'd 2021 BCCA 346 (BC Court of Appeal, September 2021).
[29] Traci Brynne Voyles, *Wastelanding: Legacies of Uranium Mining in Navajo Country* (Minneapolis: University of Minnesota Press, 2015).
[30] In 2023, Vale Canada Ltd. received $500,000 through Ontario's Critical Minerals Strategy to advance bioleaching techniques for extracting nickel and cobalt from mine waste. More recently, the Scadding Mine site near Sudbury has been reprocessing roughly 150,000 tonnes of gold tailings. At a larger scale, Radhakrishnan Mahadevan is currently partnered with major mining companies to explore reprocessing up to 100 million tonnes of pyrrhotite tailings across the Sudbury region. In Timmins, STLLR Gold is chemically testing processing of century-old gold tailings, possibly in the millions of tonnes, with potential production around 2027. Several other significant chemical remining proposals include: First Mining Gold for historic gold mine waste materials at Cameron Lake in Kenora; 36 million tonnes of gold tailings at Kerr-Addison; and at Castle Silver and Miller Creek, tailings zones of 1.94 million tonnes containing roughly 2.96 million ounces of silver, and possibly cobalt, by Nord.
[31] Jeffery Collins et al, "Waste Not Unlocking critical and strategic mineral opportunities in Canada's tailings" (2024) *Action Canada* at 10.
[32] *Ibid* at 11.
[33] The 2025 Action Canada report's discussion of "billions in untapped" mine-waste potential can be more closely situated with a circular economy framework, as reflected in Natural Resources Canada's Mining Value from Waste Initiative (Zinck et al. 2018) and the 2022 Critical Minerals Strategy.
[34] Shiri Pasternak, *Grounded Authority: The Algonquins of Barriere Lake against the State* (Minneapolis: University of Minnesota Press, 2017).