May 2016

AN AUDIT OF COMPLIANCE AND
ENFORCEMENT OF THE MINING SECTOR

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SUMMARY OF RECOMMENDATIONS

In addition to this overall recommendation, we have included 16 recommendations that provide further guidance to government in the development of this new unit. These recommendations are themed by activity: Planning, Permitting, Compliance Promotion, Compliance Verification, Enforcement, Evaluation and Adjustment, and Reporting.

Each recommendation was in response to specific findings. In some cases, the recommendation was made due to specific issues as a result of the Ministry of Environment's or the Ministry of Energy and Mines' performance, and in other cases, the recommendation was applicable to both ministries.

Planning

1.1 **Strategic planning**

We recommend that government develop a strategic plan that would detail the activities of an integrated and coordinated regulatory approach, and the necessary capacity, tools, training and expertise required to achieve its goals and objectives.

Permitting

1.2 **Permit language**

We recommend that government ensure both historical and current permit requirements are written with enforceable language.

1.3 **Security – adequate coverage**

We recommend that government safeguard taxpayers by ensuring the reclamation liability estimate is accurate and that the security held by government is sufficient to cover potential costs.

1.4 **Security – catastrophic events**

We recommend that government review its security mechanisms to ensure taxpayers are safeguarded from the costs of an environmental disaster.

1.5 ***Environmental Management Act* waste discharge fees**

We recommend that government review its fees under the *Environmental Management Act* and ensure that the fees are effective in reducing pollution at mine sites.

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1.6   **Cost recovery**

We recommend that government adopt a cost recovery model for permitting and compliance verification activities that is consistent across all ministries in the natural resources sector.

1.7   **Decision-making – Use of section 137 of the *Environmental Management Act***

We recommend that government publically disclose its rationale for granting a permit under section 137 of the *Environmental Management Act*. Specifically, information should include how factors such as economic, environmental, and social attributes were considered in the determination of public interest.

Compliance Promotion

1.8   **Reclamation guidance**

We recommend that government develop clear and comprehensive reclamation guidance for industry.

1.9   **Incentives**

We recommend that government create effective incentives to promote environmentally responsible behavior by industry.

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Compliance Verification

1.10   **Risk-based approach**

We recommend that government develop a risk-based approach to compliance verification activities, where frequency of inspections are based on risks, such as industry's non-compliance record, industry's financial state, and industry's activities (e.g., expansion), as well as risks related to seasonal variations.

1.11   **Systematic compliance verification**

We recommend that government systematically monitor and record compliance with high-risk mine permit requirements.

1.12   **Qualified Professionals**

We recommend that government establish policies and procedures for the use and oversight of qualified professionals (QP) across the natural resources sector. These policies and procedures should have the following:

- guidance for staff that outlines the specific nature and amount of oversight expected of a QP's work
- guidance for staff as to expected timeframe for review and response to QP reports
- updated guidance for staff for recognizing and responding to misconduct by a QP
- controls in place to ensure that there is no undue influence on the QPs by industry
- controls in place to ensure that recommendations by QPs are adhered to

1.13   **Mine design**

We recommend that government adopt appropriate standards, review mine designs to ensure that they meet these standards, and ensure that mines, as constructed, reflect the approved design and standards.

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Enforcement

1.14 **Policies, procedures and tools**

We recommend that government develop policies, procedures and enforcement tools for responding to non-compliances when industry does not meet government's specified timeline.

Evaluation & Adjustment

1.15 **Evaluation & adjustment**

We recommend that government regularly evaluate the effectiveness of its compliance promotion, compliance verification, and enforcement activities and tools, and make changes as needed to ensure continuous improvement.

Reporting

1.16 **Public reporting**

We recommend that government report publicly the:

- results and trends of all mining compliance and enforcement activities
- effectiveness of compliance and enforcement activities in reducing risks and protecting the environment
- estimated liability and the security held for each mine