

August 27, 2009

Fiona Solomon,
Director - Standards Development,
Responsible Jewellery Council
First Floor, Dudley House
34-38 Southampton St
London WC27HF

Re: Comments on the second draft of the Mining Supplement

Dear Ms. Solomon:

Northwest & Ethical Investments L.P. would like to commend the Responsible Jewellery Council (RJC) for developing a responsible jewellery certification system and for twice seeking input on the associated Mining Supplement¹. As an investor in mining companies, we would like to offer our comments on the June 29 consultation draft. Noting that no investor input was generated during the first round of consultation, we believe that our unique perspective may add value to the process.

With over C\$4 billion in assets under management, Northwest & Ethical Investments L.P. is Canada's largest socially responsible mutual fund company. As a responsible investor, we share the RJC's objective to "advance responsible ethical, social and environmental practices". Our approach to investing incorporates the thesis that companies integrating best environmental, social and governance (ESG) practices into their strategy and operations will provide higher risk-adjusted returns over the long term. Through our evaluations, proxy voting activities, corporate engagements and policy submissions, we are experienced in encouraging companies to incorporate ESG best practices – including companies in the mining sector.

Given that 57% of the world's publicly-traded mining companies are listed on Canadian exchanges², and that significant environmental and social risks are associated with the industry, engagement with the mining sector forms a major focus of our work. Examples of our achievements in this area include encouraging Barrick Gold to adopt and implement a progressive HIV/AIDS policy for its international workers, and convincing Goldcorp to assess community impacts through a human rights impact assessment³.

One way in which we seek to improve sustainability performance is by participating in consultations on industry standards. In the following pages we set out our perspective on the RJC Principles and Code of Practices as well as comments on additions to the RJC Standards Guidance.

¹ <http://www.responsiblejewellery.com/supplement.html>.

² http://www.tmx.com/en/pdf/Mining_Sector_Sheet.pdf.

³ Reporting on all our corporate dialogues can be found at:
https://www.ethicalfunds.com/en/Investor/ChangingTheWorld/DifferencesWeMake/MakingGoodCompaniesBetter/Pages/FocusList_2009.aspx.

The revised RJC Principles and Code of Practices:

In general, we feel that the revised Principles and Code of Practices benefits from the added sections and the inclusion of international principles. References to the Extractive Industries Transparency Initiative (EITI), the International Finance Corporation Performance Standard 5 and the Voluntary Principles on Security and Human Rights are appropriate additions. Moreover, all the new sections in the mining supplement, including those dealing with Indigenous Peoples, Artisanal and Small-scale Mining, and Biodiversity, help to strengthen the document.

That said we do have two comments on areas that do not appear to have been addressed in the last round of consultation.

COP 1.3 Kimberley Process

The section on the Kimberley Process naturally and appropriately focuses solely on diamonds. There is no mention of the issue of gold, precious stones (other than diamonds), and other metals obtained from conflict zones. Companies may face the risks of increased regulation, reduced community support, and reputational damage if they are associated with any type of conflict metal or mineral. Given the increasing attention to 'dirty gold', as well as the inclusive nature of RJC's jewellery certification, it would be appropriate to widen the scope of this section to encompass the principle that members should not knowingly buy or sell any precious stones or metals that fund conflict.

COP 2.12 – Use of Security Personnel

In this section, we note the lack of additional content. Given the significant financial, reputational, and human rights risks associated with the use of security personnel, it would be beneficial to include further background information and recommendations regarding interaction of mining security with police and/or military forces - particularly where police and/or military forces use mine facilities, or are otherwise supported by the mine.

The draft RJC Standards Guidance:

We offer the following comments on the RJC Standards Guidance.

COP 2.11 – Community Engagement and Development

Regarding the recommended approach for complaints and grievance mechanisms, we would suggest that independence is an important feature of such mechanisms. Best practice should include the use of external services to enable anonymous complaints by those who might otherwise remain silent. For example, Anglo American's Speak-Up program allows for anonymity through the website www.anglospeakup.com, which is managed by an independent organization.

COP 2.13 Indigenous Peoples

We agree that the provision on Indigenous Peoples should be implemented in conjunction with the provisions on Community Development (COP 2.11). We also agree that the social license to operate requires "early and ongoing engagement with affected communities and stakeholders throughout the project's lifecycle". As an investor, we have monitored with concern situations in which failure by companies to acquire community consent (and especially Indigenous Peoples' consent) has led to extractive projects being delayed or halted, with negative consequences for company value. While the Indigenous Peoples section does refer to free, prior, and informed consultation (page24), we believe companies should go further, striving for ongoing consent to projects.

Free, prior and informed consent (FPIC) has been defined as:

“the right of the local community to be informed about mining operations on a complete and timely basis and to approve a mining operation prior to the commencement of operation. This includes participation in setting the terms and conditions addressing the economic, social and environmental impacts of all phases of mining and post-mining operations”⁴.

FPIC is an emerging standard for corporate engagement with Aboriginal people, and has been incorporated into the United Nations Declaration on the Rights of Indigenous Peoples, the International Labour Organization’s Indigenous and Tribal Peoples Convention 169, and the report of the World Commission on Dams.

In 2008 we released a report, *Winning the Social License to Operate: Resource Extraction with Free, Prior and Informed Community Consent*, highlighting the emergence of FPIC and its value as a way for companies to increase investment security (<https://www.ethicalfunds.com/SiteCollectionDocuments/docs/FPIC.pdf>).

We believe FPIC makes good business sense, and would encourage inclusion of a specific reference to the principle in this section.

COP 3.3.4 – Tailings and Waste Rock Management

On the issue of tailings management, we would prefer to see a stronger position against riverine tailings disposal. While we acknowledge it is used at some existing mines because precipitation, steep terrain and/or seismic activity prevent the use of alternative methods, we believe the practice should be avoided for future projects. For example, Inmet Mining Corporation’s mine waste management policy states that the company will not consider future acquisitions or development projects involving riverine tailings disposal⁵.

COP 4.4 – Impact Assessment

In this section, we recommend strengthening the reference to human rights, and adding background information and best practice suggestions on human rights impact assessment (HRIA). At present human rights impact is treated as an element of a Social Impact Assessment (SIA). A typical SIA, however, will not explore the issue in adequate detail and depth to identify the extent of the risk and its possible consequences. To address this problem, extensive work is being carried out to define the parameters for a detailed and disciplined HRIA. We recommend referencing the work of the United Nations Secretary General’s Special Representative on business and human rights found at <http://www.business-humanrights.org/SpecialRepPortal/Home/Introduction>.

Although HRIAs are a recent innovation, there are indications that they can significantly reduce risks for projects with human rights concerns⁶. For this reason, we have worked with a group of investors to encourage Goldcorp to pursue an HRIA for its Marlin mine in Guatemala (see www.hria-guatemala.com for details).

⁴ See Environmental Law Institute, *Prior Informed Consent and Mining: Promoting Sustainable Development of Local Communities* (2004), http://www.elistore.org/reports_detail.asp?ID=10965.

⁵ The policy is posted on the company’s website: http://www.inmetmining.com/Theme/Inmet/files/pdf/2005_Mine_waste%20policy.pdf.

⁶ For example, in 2002 BP undertook a formal Human Rights Assessment for its Tangguh project in Indonesia as a way to address human rights issues in a politically-charged region. See http://www.bp.com/liveassets/bp_internet/globalbp/STAGING/global_assets/downloads/1/hria_summary_Tangguh_HRIA_1736.pdf for a summary of recommendations and conclusions.

COP 4.5 – Sustainability Reporting

We agree strongly that reporting should follow the Global Reporting Initiative (GRI) G3 Guidelines and the Mining and Metals Sector Supplement. Requirements for disclosure based on standardized global guidelines enable investors to compare how companies are dealing with ESG risks.

In conclusion, we thank the Responsible Jewellery Council for this opportunity to bring our investor perspective to the development of standards for the jewellery supply chain. While we believe the suggestions outlined earlier would enhance the draft, we see much merit in the RJC Mining Supplement. We look forward to the publication of the final document and hope that more mining companies will become members of the Responsible Jewellery Council.

Please do not hesitate to contact us for further discussion of the issues raised in this submission.

Sincerely,

Northwest & Ethical Investments L.P.



Robert Walker
Vice President, Sustainability