

October 14, 2009

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

## Re: Comments on the third draft of the Mining Supplement

Dear Ms. Solomon:

Northwest & Ethical Investments L.P. is pleased to provide further investor perspective on the Responsible Jewellery Council's (RJC) Mining Supplement<sup>1</sup>. We would like to thank the RJC for considering our comments on the second draft of the Mining Supplement<sup>2</sup> and appreciate the transparency of your process. Because many of our earlier concerns have been addressed in the present draft, we will confine our comments to a few detailed suggestions.

With over \$4.3 billion in assets Northwest & Ethical Investments L.P. is Canada's largest socially responsible mutual fund company. Our approach to investing incorporates the thesis that companies integrating best environmental, social and governance 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.

One way in which we seek to improve sustainability performance across whole sectors is by participating in consultations on industry standards. In the following pages we offer our suggestions on the latest drafts of the RJC Principles and Code of Practices as well as comments on additions to the RJC Standards Guidance.

### The third draft RJC Principles and Code of Practices:

In general, each iteration of the Principles and Code of Practices has been stronger – a testament to the thoroughness of the process established by the RJC.

#### COP 2.12 – Use of Security Personnel

Previously we suggested the addition of information and recommendations regarding interaction of mining security with police and/or military forces. While we note an extra section on public security has been added to the Standards Guidance, we would prefer to see the issue of public security forces using mine facilities addressed in the Code of Practices. Specifically, the Code of Practices could be strengthened by requiring member

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

<sup>2</sup> [http://www.responsiblejewellery.com/downloads/RJC\\_MiningSupplement\\_Report\\_public\\_comment\\_p2\\_160909.pdf](http://www.responsiblejewellery.com/downloads/RJC_MiningSupplement_Report_public_comment_p2_160909.pdf)

companies to obtain assurance from public security forces that they will comply with the Voluntary Principles on Security and Human Rights<sup>3</sup> if they will be using members' facilities.

#### COP 3.3.4 – Tailings and Rock Management.

In our last submission we recommended a stronger stance against riverine tailings disposal. We applaud the RJC for incorporating this suggestion, and believe that the requirement for no use of riverine tailings disposal will be a distinguishing feature for the Responsible Jewellery Council certification. The additional environmental requirements have strengthened the Code of Practices, to the extent that our only further suggestion is to update the Guidance document under COP 3.3.4 to clearly reflect the new tailings disposal obligation.

#### **The second draft RJC Standards Guidance:**

##### COP 2.11 – Community Engagement and Development

Following our request for an independent complaint and grievance mechanism, the RJC has added guidance on de-identifying the complainant. Specifically, the guidance states:

Companies can also consider providing access to complaints mechanisms run by external services, which can enable complaints to be de-identified before being presented to the company.

Because 'can' infers choice, we would prefer to see it replaced with 'should'. The assurance of anonymity strengthens the credibility of complaint processes, and would hence strengthen the certification system.

At the suggestion of another stakeholder, guidance on engagement and support was added to this section. Specifically, the new text states:

Support may take a range of forms depending on the situation, such as a formal agreement between the company and community, or community participation in an ongoing dialogue about impacts and benefits of a project.

A formal agreement between a company and a community is indeed an appropriate indicator of support - but participation in dialogue may not be. While we encourage dialogue and engagement between companies and impacted communities, in our experience dialogue participants often tend to be community members who already support the project. Companies can (and should) encourage community members, especially those opposed to a project, to participate in ongoing dialogue related to the project's impacts and benefits. Since participation alone does not equate to support, we suggest that some qualification should be added around 'community participation' as an indicator of support.

##### COP 2.13 Indigenous Peoples

In our last submission, we suggested the inclusion of free, prior, and informed consent (FPIC) as a means to ensure the company has gained the social license to operate. We note the addition of a paragraph on FPIC in this draft. Moreover, we are delighted to have our paper referenced in the Standards Guidance. But this falls short of a full endorsement of the principle of FPIC. While we agree that in most cases the legal right of development approval is reserved by state authorities, as investors we are concerned about the social and financial risk posed by projects that may have received official approval, but are delayed, disrupted or fail because of conflict with an indigenous community. The World Resources Institute<sup>4</sup>, using case studies, documented the financial costs of not obtaining FPIC. If a requirement for FPIC is not feasible in the Mining Supplement at this time, then

<sup>3</sup> <http://www.voluntaryprinciples.org/principles/index.php>

<sup>4</sup> [http://pdf.wri.org/development\\_without\\_conflict\\_fpic.pdf](http://pdf.wri.org/development_without_conflict_fpic.pdf)

we recommend strengthening the FPIC reference with advice to companies that they should consider seriously the risks – in particular the significant financial risks - of proceeding with a project for which FPIC has not been obtained, even if it has been approved legally.

We also notice that the order of COP 2.13 and COP 2.12 have been reversed in Draft 2 of the Standards Guidance.

We thank the RJC for this opportunity to bring our investor perspective to the development of standards for the jewellery supply chain, and applaud the assembling of so many good practices into a single standard.

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