



June 15, 2021

Ref: 113724

Andrew Rollo
Chief Auditor
Mine Audits Unit

Email: Andrew.Rollo@gov.bc.ca

Dear Mr. Rollo

Thank you for your report entitled Audit of Code Requirements for Tailings Storage Facilities (TSF Audit).

I would like to thank you and your Audit Team for the detailed analysis and thoughtful approach in examining the effectiveness of the TSF related revisions made in 2016 to the Health, Safety and Reclamation Code for Mines in British Columbia (Code). The TSF Audit is the first report from the Chief Auditor, an independent statutory role that was established in August 2020 through amendments to the *Mines Act*. The Ministry is proud of this new audit function and believes this report and the work of the Chief Auditor and Mine Audits Unit represents another significant step in the Ministry's commitment to continuous improvement and regulatory excellence.

The Ministry is committed to robust TSF oversight and I am pleased to accept all seven recommendations. I appreciate the audit conclusion that the 2016 Code revisions are having a positive impact on the management and operation of TSFs in British Columbia, and that the Code continues to rank among the best frameworks for regulating tailings storage facilities globally. These changes to the Code were made based on lessons learned from the August 4, 2014 breach of the TSF at the Mount Polley Mine. In addition to the 2016 Code revisions, the Ministry has made significant improvements to further strengthen the mining regulatory framework and oversight activities by:

- restructuring to create two mining divisions in 2019, supported by a \$20 million investment, to enhance regulatory effectiveness by separating health, safety, compliance and enforcement activities from permitting activities;
- amending the *Mines Act* in 2020 to strengthen and modernize compliance and enforcement provisions and create a new Chief Permitting Officer position with authority for permitting, distinct from the Chief Inspector of Mines;

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- establishing a standing Code Review Committee in 2019 that includes representatives from industry, labour and First Nations and charged with recommending revisions to the Code on an ongoing basis and ensuring a mechanism is in place to update and keep this key mining regulation current; and
- developing and implementing innovative digital tools to aggregate and centralize data for mines in BC and support robust and transparent regulatory oversight.

The Ministry agrees that continuous improvement is critical to our effectiveness into the future. The TSF Audit provides a thorough analysis and clear recommendations for further improvements that can be incorporated into the regulatory framework for TSFs in BC. The Ministry intends to use these results to further strengthen the regulatory system and ensure mining is done right in BC.

To support this work, the Ministry has prepared a plan (Appendix A) that summarizes the key actions the Ministry will take to ensure each of the recommendations are fully considered and addressed. I am pleased to report that the Ministry is already taking steps to address the TSF Audit recommendations, including:

- collaborating with the Ministry of Environment and Climate Change Strategy and the Ministry of Forests, Lands, Natural Resource Operations and Rural Development to establish a working group to update the memorandum of understanding related to joint responsibilities for the regulation of dams that form part of a TSF (Recommendation 1);
- requesting the standing Code Review Committee establish a sub-committee to review the audit findings, together with recent changes to industry best practice, and propose relevant changes to tailings-related parts of the Code and associated guidance documents (Recommendations 2, 3 and 4);
- reviewing current compliance and enforcement policies to determine where changes or additions may improve clarity and inform a common understanding among Ministry staff and regulated parties of the Ministry's compliance verification and enforcement approach (Recommendation 5);
- analysing the Code required documents to clarify purpose, value, and alignment with Code requirements to ensure the Code Review Committee has the information necessary to recommend revisions to relevant Code sections (Recommendation 5);
- restructuring to establish a team of technical inspectors, including geotechnical, to report to the Chief Inspector of Mines to ensure clear reporting lines are in place for compliance-focused inspectors. This team includes a TSF manager with a specific focus on compliance and enforcement for TSFs (Recommendation 6); and
- to further support the planning of compliance verification activities, the Ministry has developed a risk-based inspection planning tool that is being used to prioritize geotechnical inspections and ensure a systematic approach to compliance verification activities at mines in BC (Recommendation 6).

TSF safety at mine sites is a critical part of protecting downstream communities, the environment and worker safety.

The Ministry believes the 2016 TSF revisions to the Code, unanimously approved by the Code Review Committee which included indigenous partners, labour and industry geotechnical experts, are an important part of our response to lessons from this incident, but we also understand there is more to do. The TSF Audit recommendations provide valuable information and analysis that allow us to continue improving the regulatory framework for TSFs in BC and meet the growing expectations of Environment, Social, Governance conscious investors.

The Ministry is committed to promoting a culture of continuous improvement that is supported by the establishment of the Chief Auditor and the Audit Unit. The Ministry would like to congratulate you and your entire team on this first report, and we look forward to future audits and recommendations to continue improving priority areas of BC's mining regulatory framework.

Sincerely,

A handwritten signature in black ink, appearing to read 'Fazil Mihlar', written in a cursive style.

Fazil Mihlar
Deputy Minister

Attachment: Appendix A – TSF Audit Action Plan