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### Office of the Extractive Sector, Corporate Social Responsibility (CSR) Counsellor

Field Visit Report 2013-04-MEX  
Mexico, June 2013

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*Views expressed herein are those of the Office of the Extractive Sector CSR Counsellor.  
Errors and omissions remain the responsibility of the Office.*

**June 2013**

**This report is available in English, French and Spanish.**

#### About the Office of the Extractive Sector CSR Counsellor

The Office of the Extractive Sector CSR Counsellor is a new office, set up as part of the Government of Canada's corporate social responsibility strategy for the Canadian international mining, oil and gas sectors. The Office's Review Process provides an opportunity for dialogue and problem-solving between a Canadian extractive company overseas and people affected by the project.

In response to a request for review received on February 11, 2013, the Office of the Extractive Sector CSR Counsellor is in the process of completing its dispute analysis. One component of that analysis is the Office's field visit, which took place in June 2013. This report provides a short update of the request so far, and highlights themes which emerged during the visit.

One of the Office's key guiding principles is Transparency. Implementation of this principle recognizes the distinction stakeholders have made between transparency of process, which is to be encouraged and is deemed critical for the Office, and transparency of information, some of which may well need to be kept confidential in order to have the work proceed.

#### 1. Office backgrounder

In March 2009, the Government of Canada announced a new Corporate Social Responsibility (CSR) Strategy for the Canadian international extractive sector (called "Building the Canadian Advantage"). The CSR Strategy seeks to improve the competitive advantage and reputation of Canada's extractive sector companies operating overseas by enhancing their ability to manage social and environmental risks. One of its goals is to help ensure that extractive operations minimize negative impacts while enhancing benefits to local communities.

The CSR Strategy is based on four integrated and complementary elements:

- Support for host-country capacity-building initiatives related to resource governance;
- Promotion of widely recognized international CSR performance guidelines;
- Support for the development of a CSR Centre of Excellence to develop and disseminate high-quality Corporate Social Responsibility tools and training to stakeholders; and
- Creation of an Extractive Sector CSR Counsellor to assist in the effective and impartial resolution of issues pertaining to the activities of Canadian companies abroad.

The Counsellor has two roles – an advisory role, and a dispute resolution role. In fulfilling our dispute resolution role, the Office of the CSR Counsellor provides a new option for constructive resolution of disputes between Canadian mining, oil and gas companies and project-affected stakeholders outside of Canada. The first Counsellor, Marketa Evans, was appointed in October 2009. The Office was opened in Toronto in

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Process was informed by a formal and proactive multiperspective consultation in which over 300 individuals and organizations directly participated, both in Canada and overseas.

The Government of Canada has articulated its expectation that Canadian companies adhere to all local laws of the country of operations. The Government of Canada has long supported the OECD Guidelines for Multinational Enterprises. The CSR Strategy adds the Government of Canada's endorsement to three additional widely accepted global guidelines, specifically for Canadian mining, oil and gas companies in their operations outside of Canada:

- International Finance Corporation Performance Standards
- Voluntary Principles on Security and Human Rights
- Global Reporting Initiative

Our dispute resolution process only applies to the standards noted above.

### About the review process

The Review Process is a voluntary dispute resolution mechanism – the objective is to foster dialogue and to create constructive paths forward for all parties. It is about people with different views and interests working together to find mutually acceptable solutions. Supporting documents about the process are available on our website.

The Office of the Extractive Sector CSR Counsellor is a neutral third party in disputes between Canadian mining, oil and gas companies and project affected communities. This means that we help people find solutions, but we do not take sides. In many cases, a neutral third party can help people work together better. The Office uses a well-established methodology called interest-based dispute resolution and is part of a global community of practice.

The steps in the Review Process are:

1. The Office receives a complete request for review.
2. The Office acknowledges receipt of the request.
3. The Office carries out an intake screening. This intake screening determines if the request meets the criteria as set out in the Counsellor's legal mandate. The intake screening is not a judgment on the merits of the request or an assessment of the information contained in the request. The intake screening is completed within 40 business days.
4. The Office begins the dispute analysis. This analysis does not aim to render a judgment on the merits of the complaint, or an assessment of the information contained in the request. The analysis is a way to determine if a dialogue-based approach is likely to be effective or appropriate.
5. The Office and the parties can move to a more structured dialogue. This requires the written consent of the parties. The structured dialogue process lasts up to about 6 months and may be extended on agreement of the parties.

**Optional:** The parties may also agree to work with a formal mediator.

On an on-going basis, the Counsellor writes reports about requests for review, including final reports at the end of the process.

## 2. This request for review

The Office received a request for review on February 11, 2013. The requesters are listed as The Mexico Canada Responsible Mining Network and inhabitants of the town of Cerro de San Pedro. According to its reports, the Network is a collaborative effort of Canadian and Mexican specialists in CSR and sustainable development, and its objectives include 'improvement in the health and welfare of people and the environment in Mexican regions' where Canadian mining takes place and 'improvement in the effectiveness and efficiency of Canadian mining operations in Mexico.'

The responding party is New Gold Inc., related to the Minera San Xavier project in Mexico. New Gold has seriously and constructively engaged with the Office on this request, at senior management levels.

- Intake Screening completed: February 12, 2013
- Dispute analysis now underway: A key tool widely used by third party neutrals to inform a dispute resolution process, it forms a critical part of the Office's due diligence.

The Office's dispute analysis methodology follows standard best practice for third party dispute resolution, modeled for example, by the World Bank Group's Compliance Advisor Ombudsman, the US Institute for Environmental Conflict Resolution, and many others. We first undertake significant desk research and analysis, seeking to answer questions such as 'who are the parties?', 'what are the issues?', 'what has been tried before to address the issues?' This includes meetings, phone calls with all the parties and additional information sharing where appropriate. The Office engages only with good faith actors.

Early in the process we clarified in writing with the requesters that certain issues would be excluded from the request as they were outside the mandate of the Office. These include:

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- Disputes involving Mexican government authorities
- Company compliance with international law
- Issues of criminal law, including bribery and corruption

The Office works to ensure that our approach is fair and balanced. The Office meets in person, by telephone and other means, with the parties in equal measure to the extent possible. These interactions allow the Office to educate parties about the process, and allow parties to share information, perspectives, and concerns.

The Counsellor is not a judge or an arbitrator and does not pronounce on the merits of substantive points of disagreement between the parties. The views expressed in this report on such substantive issues are those of the parties, and not those of the Counsellor or the Office. The Office listens to all points of view but does not take sides.

### How the field visit was conducted

The Office took steps to ensure its independence from the parties, and followed good practice guidelines. Expenses for travel and accommodation were borne by the Office. Independent interpreters were hired by the Office. Numerous different formats, forums and venues were used for meetings with many different parties. Meetings were conducted separately with requesters and the responding party, in locations of their choosing. Discussions were not for attribution. People were asked not to video/audio record during meetings.



### Objectives

The field visit was an effort to enhance the Office's understanding of a variety of perspectives, deepen relationships, build trust and expand the dialogue between the Office and the parties to the request. It allowed people to ask questions directly of the Office about the review process. Such a visit does not in any way constitute an audit or a compliance review.

A common misunderstanding is that the Office conducts a field visit to assess the company's CSR performance or practices. The Office does not assess corporate performance. In fact, the Office conducts a field visit to establish direct relationships, learn about on-the-ground perspectives, and explain who we are and what we can do.

During the course of our visit, we met with New Gold management and staff, mine personnel, community members in Cerro de San Pedro, members of other communities in the proximity of the mine, and other stakeholders. We spent time explaining the Office's mandate and parameters, and the purpose of our field visit.

### Background on the project

New Gold Inc. is incorporated in British Columbia and maintains a 100% interest in the Cerro San Pedro gold-silver mine in Mexico through its subsidiary Minera San Xavier S.A. de C.V.



Construction of the Cerro San Pedro Mine began in 2004 and commercial production commenced on May 1, 2007. New Gold acquired the project in 2008 as a result of its business combination with Metallica Resources.

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Management Institute as a signatory to the International Cyanide Management Code. As a member of the World Gold Council, the company will be required to implement the Conflict-Free Gold Standard. According to information we were provided by the company, Minera San Xavier obtained recertification of the Environmental Management System ISO 14001:2004 for the period 2011-2014. The process plant is certified under ISO 9001:2008 for the period 2012-2015.

### Reflections

Although the Office met with a broad cross section of stakeholders, across a number of project-affected communities, the themes below reflect only perspectives from company-related meetings and requester-related meetings. This list is indicative of the issues heard by the Office. It is not meant to be exhaustive of every issue that was raised; rather, it reflects several themes that arose at numerous junctures in our discussions. The themes are listed in alphabetical order.

- Closure and remediation plans
- Community development and diversification of livelihoods and economic growth opportunities
- Concerns about minimizing health impacts
- Concerns about social cohesion and the social fabric
- Difficulties in having a mine at such close proximity to a large population and to a historical town
- Frustration about the long standing conflict – it seems impossible to reach resolution, deep mistrust has developed
- How can complaints about daily irritants be quickly and constructively resolved?
- How can people better understand each other's viewpoints and experiences?
- Need to expand opportunities to share information about the company's practices and expertise with respect to environmental management and community health
- People on all sides feel their personal integrity has been called into question
- Sensitivity to historical preservation, cultural and spiritual heritage and deeply held connections to the life of Cerro de San Pedro
- Working on a positive vision for the future

### 3. Next step

The Counsellor thanks all of the parties for their demonstrable efforts and goodwill to engage in the process so far. Further meetings are planned.

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