



The Mining Association | L'association minière  
of Canada | du Canada

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### **Introduction**

The Mining Association of Canada (MAC) is the national organization of the Canadian mining industry. It comprises companies engaged in mineral exploration, mining, smelting, refining and semi-fabrication. MAC represents more than 35 members engaged in exploration, mining, smelting and semi-fabrication across a host of commodities including iron ore, gold, diamonds, oil sands, steel-making coal, base metals and uranium. The Association's broad functions are to promote the interests of the industry nationally and internationally, to work with governments on policies affecting minerals, to inform the public and to promote cooperation among member companies.

In 2011, the mining industry employed 320,000 workers and paid \$9 billion in taxes and royalties to provincial and federal governments. Mining is Canada's largest private sector employer of Aboriginal Canadians on a proportional basis and pays the highest average wages in the economy. Contributing \$35.6 billion to Canada's GDP, mining also accounts, on an annual basis, for more than 50% of the freight revenues of Canada's rail system. In 2011, the industry accounted for almost 23% of the value of Canadian goods exports. According to recent MAC research, Canada's mining industry is poised to invest \$140 billion in projects over the next decade, with multiple billions in each of British Columbia, Alberta, Saskatchewan, Ontario, Quebec, Newfoundland and Labrador, Nunavut and the Northwest Territories. The sector is a truly pan-Canadian industry.

### **TSM: Mining's Commitment to Environmental Stewardship**

MAC's mission is to contribute to building a strong, sustainable and internationally competitive Canadian mining, minerals and metals industry with broad national support and to promote sound corporate and public policy. An important means to do so is through Towards Sustainable Mining (TSM), a program that has been evaluated by Five Winds International and the Canadian Business for Social Responsibility as "best-in-class" when compared to other voluntary standards.

TSM commits MAC members to a set of guiding principles, which are at the core of the program. These principles represent the membership's commitment to responsible mining and express the values that it shares with employees and communities of interest. The guiding principles articulate ways in which the Canadian mining industry can demonstrate leadership. In 2004, MAC established a TSM Community of Interest (COI) Advisory Panel on which sit

representatives from environmental and social NGOs, labour, and local communities. This multi-stakeholder group helped draft the guiding principles and continues to guide TSM and advise the industry on how to improve performance and address key issues.

To support the guiding principles and ensure that members have the tools to fulfil their commitments on the ground, MAC has developed a suite of management system-based performance protocols to help companies manage key risks and continuously improve. To date, six protocols have been developed and implemented: Aboriginal and community outreach, biodiversity conservation management, crisis management planning, energy use and greenhouse gas (GHG) emissions management, safety and health, and tailings management. Each protocol incorporates a set of indicators that are designed to measure the quality and comprehensiveness of facility-level management systems and are intended to provide the public with an overview of the industry's performance.

Annually, participating facilities conduct a detailed self-assessment against each indicator in the above-mentioned protocols and report publicly on their progress to implement the criteria for each indicator. MAC publishes the results for each facility annually in our TSM Progress Report each fall. To ensure that both MAC members and the public have confidence in the reported results, every three years a trained verifier critically reviews a company's self-assessments to determine if there is adequate evidence to support the performance ratings the facility has reported. The COI Advisory Panel also plays an important role in the external verification process. Each year, the Panel invites two to three member companies to participate in a post-verification review. As part of this review, the Panel is given an opportunity to ask member companies questions about their environmental and social performance. The purpose of this review is to enhance the credibility of the program, highlight any deficiencies and best practices and drive continuous improvements.

## **TSM and Biodiversity Conservation**

For over a decade, MAC has been involved in initiatives and programs related to biodiversity conservation. MAC has participated in the North American Bird Conservation Initiative and the North American Waterfowl Management Plan. MAC has also collaborated with nature conservation groups to help develop solutions for proposed national park boundaries (e.g. Northern Bathurst Island). MAC was involved in the very early days of the development of the federal *Species at Risk Act* and continues to play an important role in development and implementation of the National Strategy for the Protection of Species at Risk as a member of Environment Canada's Species at Risk Advisory Committee.

In 2007, MAC members made a strong commitment to biodiversity conservation management with the formal adoption of the *TSM Mining and Biodiversity Policy Framework*. The framework took more than a year to develop, and was done in consultation with the industry's key communities of interest that included the Secretariat of the Convention on Biological Diversity, the IUCN Canada Office, the Canadian Boreal Initiative, other ENGOS and MAC's COI Advisory Panel. The framework builds upon MAC members' commitments under the TSM guiding principles and steered the development of the TSM biodiversity conservation management assessment protocol. Through adoption of this framework, MAC members are expected to positively contribute to the conservation of biodiversity and to work with communities to develop

and implement responsible policies and practices to protect critical habitat. The framework includes several commitments including:

- Recognizing that protected areas can contribute to biodiversity conservation, MAC members will comply with the requirements of legally-designated protected areas. Members are also committed to working with key communities of interest to develop transparent, inclusive, informed and equitable decision-making processes for the establishment of protected areas.
- MAC member companies undertake not to explore or develop mines in World Heritage sites. All possible steps will be taken to ensure that pre-existing operations in World Heritage sites as well as existing and future operations adjacent to World Heritage sites are compatible and co-exist with biodiversity goals.

To help MAC members fulfill the commitments within the Mining and Biodiversity Policy Framework, MAC's biodiversity task force developed a TSM protocol to provide companies with a tool to develop biodiversity conservation management systems and measure ongoing performance at their facilities. The protocol consists of three performance indicators, which when implemented form a robust management system:

## **1. Commitment, Accountability and Communications**

The first indicator in the Biodiversity Protocol measures corporate commitment to manage biodiversity conservation at a company's facilities. This commitment should be a driver of management actions undertaken to address biodiversity. In order for policies and commitments to be effective, there must be a process to ensure that they are communicated to relevant employees and local communities of interest. There must be demonstrated commitment by senior levels of the organization and defined roles and responsibilities to implement these commitments.

Examples of such commitments include those made by Rio Tinto and Teck Resources. Rio Tinto has publicly articulated a goal 'to have a net positive impact on biodiversity. This means minimising the impacts of our business and contributing to biodiversity conservation to ensure a region ultimately benefits as a result of our presence.' Teck Resources also commits to a net positive impact through its vision to 'achieve a net positive impact on biodiversity by maintaining or re-establishing self-sustaining landscapes and ecosystems that lead to viable long-term and diverse land uses in the areas in which we operate.' Each of these companies has detailed specific steps it is taking to realize a net positive impact.

Industry leadership in this indicator means that facilities are actively partnering with other organizations to achieve goals related to biodiversity conservation.

## **2. Planning and Implementation**

The second indicator goes a step deeper and examines the effectiveness of plans and management systems to ensure that significant biodiversity aspects are effectively identified and managed. Good practice in this indicator means that a facility has established processes to assess potential impacts to biodiversity, establish targets for significant biodiversity aspects,

develop and implement action plans to achieve targets, engage with communities of interest and track and monitor progress.

Industry leadership in this indicator means that facilities will be able to demonstrate that biodiversity conservation is integrated into a broader business strategy. For example, facilities are expected to invest in R&D that enhances the industry's understanding of and contribution to biodiversity conservation, science and traditional knowledge.

An example of action consistent with the intent of this indicator is Teck Resources' involvement with the Canadian Intermountain Joint Venture (CIJV). The CIJV is a dynamic partnership of government agencies, Aboriginal groups, non-governmental organizations, industry, universities and landowners. The CIJV operates under the umbrella of the North American Bird Conservation Initiative, which advocates for bird conservation through regional partnerships. The CIJV provides regional implementation of: The North American Waterfowl Management Plan, The Canadian Shorebird Plan, Partners in Flight (Landbirds), and Canada's Conservation Program for Seabirds and Waterbirds (Wings over Water). In the first two years, CIJV partners contributed over \$12 million to secure over 114,000 hectares of wetland and associated habitat.

Teck Resources has also had significant success in reclaiming land previously impacted by mining activities, as have many of MAC's members. At Highland Valley Copper, Teck has reclaimed a former tailings facility called Trojan Pond that was used to store tailings between 1981 and 1988. Today, the pond and surrounding area are primarily used for wildlife habitat and recreational fishing. Every year, the pond plays host to a fly fishing derby in the summer and an ice fishing derby/pond hockey tournament in the winter, with proceeds benefiting the Kamloops B.C. Royal Inland Hospital Foundation.

An example of how Rio Tinto Iron Ore Canada (IOC) demonstrates its commitment to biodiversity management comes from its iron ore mine near Labrador City, Newfoundland. For 40 years, IOC discharged up to 23 million tonnes of fine grained waste rock (mine tailings) into Wabush Lake. Although in compliance with regulatory requirements, the tailings had a significant effect on the physical and biological balance of the lake. In response to this and regulatory changes, IOC created a number of partnerships with outside groups to investigate options for improved management of the tailings impoundment. The outcome is the 'Tailings to Biodiversity' initiative (TBI).

The TBI involves development of land forms and an artificial wetland with the planting of a diverse variety of native vegetation. Low-lying areas will form a mosaic of wetland basins, riparian zones and uplands that will provide a variety of habitats for native wildlife. IOC anticipates the artificial wetland will not only contribute to biodiversity conservation, but also minimise operational costs and maximize the options for post mine land use. Early estimates of the costs of wetlands indicate that the project will be either cost neutral or cheaper than traditional re-vegetation. Additionally, IOC has linked this project with the North American Waterfowl Management Plan, which has enabled the TBI to unlock equivalent funding from the US Government to enable the municipality of Labrador City to participate in the project. Rio Tinto is also a partner with BirdLife International, a global alliance of conservation organizations working together for the world's birds and people. With partner organizations in 110 countries, BirdLife works to conserve birds and other biodiversity, and improve the quality of life for people.

Through this partnership, Rio Tinto has implemented bird awareness and conservation projects in Canada and globally.

An additional example of an initiative to support biodiversity conservation is from Xstrata Copper's Kidd Operations in Timmins, which is involved in the Mattagami River Sturgeon Restoration Project, an effort to re-establish Lake Sturgeon in the local watershed. A once large population of Lake Sturgeon had been reduced significantly due to overfishing, log drives, habitat fragmentation caused by the construction of hydro-electric dams and to a lesser degree pollution. This project's efforts have provided valuable data on the size and location of the fish population, where they gather to breed and how the river environment can be improved to encourage reproduction.

### **3. Reporting**

The third indicator in the TSM Biodiversity Conservation Management Protocol is focused on transparency and looks at the extent to which facilities report publicly on their biodiversity conservation performance. Industry leadership with respect to this indicator includes a requirement to independently review publicly reported materials and to seek stakeholder feedback on biodiversity conservation reporting.

#### **What TSM helps tell us about Conservation in Canada**

Biodiversity conservation is increasingly well-integrated into mine planning and management. Furthermore, resource development and environmental conservation are not mutually exclusive. Their coexistence is not a given, however, but is achieved by effective regulation and responsible resource management. For example, a mine built today is obligated by Canadian law to provide financial assurance that the mine can be reclaimed when operations cease, and mine closure plans must be prepared and accepted by government authorities prior to construction. While mining has a relatively small, localized footprint, the impacts on the local area are significant and can and should be managed responsibly over the life of the mine. TSM performance indicators for biodiversity conservation, and related TSM performance indicators for tailings management, help illustrate how resource development and environmental conservation can coexist, and how partnerships can be fostered between the mining industry and conservationists.

Effective regulation should enable collaboration on the ground between different stakeholders. It should also have sufficient flexibility to support the best environmental outcomes. The *Fisheries Act*, for example, has in the past compelled mine sites to create artificial and expensive onsite fish habitat that contributes little to enhanced fish populations and biodiversity and may, in fact, work against both. We are cautiously optimistic that a new, more flexible approach to offsets by Fisheries and Oceans Canada will enable more creative solutions to compensate for the (at times) temporary loss of fish habitat caused by new mining operations. Recently, for example, we are aware of Fisheries and Oceans Canada accepting the repair and replacement of blocked and/or damaged culverts near the mine site as part of an offset plan. These actions, simple and cost-effective, will contribute to healthier fish populations overall, even though this activity is outside the mine lease. By allowing such flexibility, the government

also enables industry to work more closely with local communities to identify and collaborate on local priorities, which also helps foster social license.

When originally conceived, the *Species at Risk Act (SARA)* was intended to foster stewardship and collaboration on the ground. The front end of the Act outlines the opportunities for concluding conservation agreements (Section 11) to enable industry, Aboriginal and local communities and governments to work together to protect species and enhance their habitats. Regrettably, the implementation of *SARA* has failed to capitalize on these aspects; to date no conservation agreement has been concluded. It has always been our view that collaboration involving land users, be they private land owners or tenants, will be the most effective approach to protect species and assist in their recovery. Indeed, a founding principle of the Species at Risk Working Group, an independent multi-stakeholder coalition of which MAC was a member that contributed significantly to the original development of *SARA*, was that for species at risk protection to succeed, actions must work for species *and* for people. Conservation efforts should not place an undue burden on land users, as species at risk protection is a public good.

Instead, government resources have been directed almost entirely to the development of recovery plans, identification of critical habitat and prescriptive critical habitat protection. Furthermore, a failure to meet the Act's timelines for recovery plans has led to litigation. There is a concern that the avoidance of litigation is now driving decision making, detracting from the Act's real objective, which is to protect species at risk and support their recovery.

*SARA*'s single species approach has also precluded a more integrated ecosystem-based approach that would recognize and plan for the fact that species do not exist in isolation. A species-by-species approach, which adds to the financial cost of administering the Act, also limits the potential for more landscape, multi-species/ecosystem-based approaches that hold the promise of greater effectiveness, lower costs and lower impacts on land users. Single-species approaches can also have perverse outcomes, with society picking "winners" based on visibility or iconic status while ignoring "losers" that could be equally or more functionally important.

There is clearly a need for better federal-provincial coordination on species protection and recovery. For many resource sectors, including mining, the provinces are the primary regulator. The provinces are typically better placed to manage land-based decisions, which could be informed and enabled by federal legislative requirements under *SARA*.

Finally, we are concerned that a narrow focus on critical habitat protection as the only tool for protecting species at risk will needlessly sterilize the land base from responsible economic development when other options might be available of equal or potentially superior effect. We recognize that, at times, critical habitat protection may be the only tool available to ensure survival of a species at risk, but blunt instruments such as this should be used sparingly and selectively.

## **Where do we go from here?**

Major projects, such as mines, are subject to full environmental reviews at both federal and provincial levels. Recent reforms to the *Canadian Environmental Assessment Act (CEAA)* have

not reduced the application to mining, though there have been meaningful and effective improvements to process and timelines. Today, mining represents about 70 percent of current federal environmental assessments. *CEAA* requires consideration of impacts of a mining project on listed species at risk. Thus, environmental assessment ensures that mines are developed with knowledge of potential impacts to species and their critical habitats, as well as other environmental considerations. This process also ensures that mines are built with appropriate mitigation and compensation measures, if required. Mines are heavily regulated at the provincial level, and permits must be obtained for all aspects including road construction, water use and release, tailings and waste rock management and disposal, and reclamation.

Further, mines built by members of the Mining Association of Canada will include implementation of TSM. In this context, what becomes important is ensuring sufficient legislative and regulatory flexibility to encourage sensible and creative approaches to environmental management. Objectives-based, rather than overly-prescriptive legal instruments, are preferred and more effective, because they encourage better outcomes and foster collaboration with other stakeholders. Our industry willingly partners with other groups active on the land base, in particular Aboriginal communities. This is in recognition that collective approaches reach farther, and combine the traditional knowledge and scientific expertise of different partners. In our experience, local communities of interest (including habitat conservation groups) with an interest in the outcome and with a connection to the land and its resources can, given time, resources and an enabling environment, form the strongest, most effective and enduring partnerships.

## In Conclusion

TSM is MAC's commitment to responsible mining that every member commits to implement. It includes a set of tools and indicators to drive performance and ensure that key mining risks are managed responsibly at our facilities. By adhering to the principles of TSM, our members demonstrate leadership through:

- Engaging with and supporting local communities
- Driving world-leading environmental practices
- Committing the resources and leadership to promote the safety and health of employees

A core component of TSM is biodiversity conservation, enabling member companies to integrate biodiversity considerations into decision-making on mine design, land use and closure planning. TSM also drives collaboration between mine sites and local communities of interest on biodiversity conservation.

The federal government can create conditions that enable and foster positive biodiversity outcomes by pursuing an outcomes-based approach. Rigid, prescriptive legislation and regulations have, in the past, contributed to perverse outcomes that should be avoided. An outcomes-based approach would support and enhance efforts by the mining industry to positively contribute to biodiversity conservation through initiatives like TSM, foster local collaboration and partnerships and reduce conflict.