

MINING ENVIRONMENTAL RISK TRANSFER

The Metals & Mining industry is comprised of companies involved in the direct extraction (mining) and processing of metals and minerals, including iron, coal, precious metals, industrial minerals and uranium, to name a few. The industry includes a rich variety of such supporting activities as exploration, consulting, quarrying and mining services; mills, foundries and manufacturing plants for processing, crushing, grinding, smelting and production of products; power generation; and necessary transportation by rail, pipeline, truck, barge and ship.

Mining is subject to cyclical fluctuations in commodity prices, general economic conditions and end-use markets. Over the last 18 months, the mining industry has been strong. Mergers and acquisitions, often a sign of industry vitality, have increased worldwide as a result of greater demand in developing countries, greater mining company financial strength, higher commodity prices and scarcer resources. Much of this growth has come from the expanding economies of China and India.

With the recent downgrade of the U.S. Sovereign Debt Rating, it is unclear how mining will be affected; however, the downgrade was anticipated in many financial markets, and a market correction was expected. We remain

optimistic that global metals demand will continue to improve in the long term with the recovery of user industries.

As mining expands to keep up with demand of developing countries, more and more mines are being developed in remote, environmentally sensitive areas. Protection of human health and the environment has become corporate policy throughout the mining industry. Efficient management of environmental risk and social responsibility directly impact profitability and are crucial to the successful operations of most mining companies. Because of the significant risks, exposures and costs, many companies are electing to transfer part of their environmental risk to insurance companies.

KEY ENVIRONMENTAL EXPOSURES

Mining companies have high environmental risk profiles and face considerable environmental challenges for both legacy and operational risks. Understanding the potential exposures and what solutions may be available to mitigate them is critical. Extensive internal risk predication models often fail to predict where catastrophic losses will arise.

NATURAL RESOURCE DAMAGES

Natural resource damages caused by mining include the impact on rainforests, wetlands, drinking water aquifers, tidal systems, coral reefs, air quality, endangered wildlife, and many other ecologic systems. They are visible to the public and are receiving significant international attention. Damage claims brought by regulatory agencies, governments, indigenous peoples, non-governmental organizations and citizen groups can be huge for mining companies.

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CLIMATE CHANGE

Environmental risk exposure from climate issues for mine operations is becoming more complex and potentially expensive. Exposure to climate change liability will have to be factored into risk management strategies for vulnerable properties, particularly refineries, smelters, crushing operations and mills but also open pit mines, which reduce forest and vegetative cover. Greenhouse gas emissions are very much at the forefront of the climate change debate.

NEW POLLUTION INCIDENTS FROM CURRENT OPERATIONS

Mining, milling and refining operations can release contaminants into soil, water and air. The liability for bodily injury and property damage to third parties from these risks can be considerable, as many of these sites are located in geographic areas that have indigenous peoples and protected natural resources. Major releases trigger significant government regulatory responses. Also, as many mines transition into closure and post closure activities, long-term water quality treatment is gaining more and more attention as a significant future risk.

HISTORIC POLLUTION CONDITIONS

Regulatory scrutiny has become intense and focused on legacy sites with historic pollution conditions. This was underscored by a recent U.S. Federal Court Decision in which the USEPA has identified the hardrock mining industry as a priority for developing new rules for establishing and maintaining financial responsibility consistent with the risk from the hazardous substances they work with. This ensures that cleanup costs for miners' environmental incidents aren't borne by the public in the event of operator or owner insolvency or dissolution.

GOVERNMENT "REOPENERS"

Regulatory determination of more stringent cleanup requirements (virtually no environmental cleanup is ever unequivocally "closed," as regulatory authorities rarely ever issue an unconditional release of liability); several "reopener" contract qualifiers allow the government to reassess a site previously deemed closed/clean.

FINES, PENALTIES AND ASSESSMENTS

Fines, penalties and assessments levied against mining companies are frequent and painful and are increasing globally in both magnitude and frequency. Canada and Argentina are two on a growing list of countries enacting regulations to impose higher fines and penalties on the mining industry for environmental violations. We anticipate this trend will continue for the long term.

REAL SOLUTIONS AND RISK MANAGEMENT STRATEGIES

Real solutions to these complex environmental challenges exist and some are presented below – including current environmental insurance products that can be adapted to address pollution incidents and restoration liabilities.

ENVIRONMENTAL LIABILITY INSURANCE

These policies generally cover the unknown or unanticipated environmental liabilities of an insured's ongoing business operations and those stemming from historic operations. This insurance is location-specific and tailored to cover liability for pollution incidents at, or migrating from, an insured's real property. The incidents covered can be sudden and accidental or gradual in nature. These policies can also cover a portfolio of sites and address liability to third parties for bodily injury and property damage, remediation costs mandated by environmental regulatory agencies, and the associated legal defense expenses. These coverage areas can be offered for both on-site and off-site exposures. Enhancements can include coverage for pollution exposures from vehicles transporting hazardous materials and liability that the insured has for wastes delivered to disposal facilities, such as landfills and incinerators. Also these policies can be structured to cover damage to natural resources – a crucial enhancement for the mining industry.

MINE RECLAMATION OR REMEDIATION INSURANCE PROGRAMS AND SURETY

Meeting Financial Assurance (FA) requirements is necessary for obtaining and maintaining operating permits in the mining industry. Letters of credit and bonds are the most commonly employed means to meet

this requirement. However, when they are not available, reclamation and remediation insurance programs offer an alternative to meet a permit's financial assurance requirements.

ENVIRONMENTAL RISK MANAGEMENT CONSULTING SERVICES

No matter what type of environmental insurance policy or program best meets the needs of the mining industry, each program is crafted specifically for the operation and company; this requires a significant level of technical consultative services, expertise, and time commitment. Willis Associates have the expertise and are committed to devoting the time and service necessary to assist our mining clients in understanding how they can mitigate their environmental risk by transferring that risk. Our insurance, mining, environmental and engineering experts work as liaison between the underwriters and our clients to build the best possible environmental risk transfer program.

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