WESTERN
AUSTRALIA

24 OCT 2012

MINISTER FOR MINES
AND PETROLEUM;
FISHERIES;
ELECTORAL AFFAIRS;
LEADER OF THE
GOVERNMENT IN THE
LEGISLATIVE COUNCIL

Your Ref: Petition 143
Our Ref: 26-14720 / 26-11978-2

Hon Kate Doust MLC
Deputy Chair
Standing Committee on Environment and Public Affairs
Parliament House
PERTH WA 6000

Dear Ms Doust

PETITION NO 143 - ENVIRONMENTAL LEGACY OF MINING

I refer to your letter dated 27 September 2012 requesting updates on the measures being implemented by the Department of Mines and Petroleum (DMP) to improve transparency and compliance, identified in my 30 April 2012 letter to the Standing Committee on Environment and Public Affairs.

On 8 May 2012, DMP announced the commencement of the Reforming Environmental Regulation (RER) program. As well as working towards best practice environmental regulation, the RER program will deliver greater certainty, confidence and clarity surrounding DMP's environmental regulatory system for all stakeholders.

In addition, the Mining Rehabilitation Fund Bill was recently passed by Parliament. The Fund's implementation will secure ongoing funding for the State to rehabilitate abandoned mine sites in Western Australia, which will lead to better environmental and community safety outcomes.

An update of DMP's progress on implementing all of its reform measures is attached (Attachment 1).

Yours sincerely

NORMAN MOORE MLC
MINISTER FOR MINES AND PETROLEUM

Att

2 2 OCT 2012

PUBLIC

New contact nos: ☎ 6552 5400   🖷 6552 5401
4th Floor, 216 St Georges Terrace, Perth Western Australia 6000
Telephone: +61 8 9422 3000   Facsimile: +61 8 9422 3001   Email: Minister.Moore@dpc.wa.gov.au

REFORMING ENVIRONMENTAL REGULATION PROGRAM

On 8 May 2012, the Department of Mines and Petroleum (DMP) announced the implementation of the Reforming Environmental Regulation (RER) program, which will fully integrate a risk and outcomes-based approach to achieve best practice in regulatory services. This reform has been developed to extend across all of DMP's environmental regulatory services, including assessments, enforcement, information provision, and compliance monitoring.

DMP's RER program is a structured process that will address the delivery of its environmental regulatory services and its interface with other regulators to remove duplication where appropriate, and strengthen administration where needed. The implementation of the RER program will align with, and complement, approvals reform by other State and Commonwealth agencies, and at the whole of Government level.

As part of the RER program, a Ministerial Advisory Panel (MAP) consisting of representatives from industry, community groups and regulators was formed in June 2012. The role of MAP is to provide recommendations to the Minister for Mines and Petroleum regarding the development and implementation of environmental regulatory reforms. Four working groups were formed in July 2012 to perform detailed work on the reforms, and provide advice, tools and strategies to the Ministerial Advisory Panel:

- Compliance Working Group - working in conjunction with an external consultant to conduct a thorough gap analysis, comparing DMP's current compliance regime against best practice.

- Governance Working Group - focusing on developing transparent reporting processes for the Mining Rehabilitation Fund and defining the policy and constitution of the Mining Rehabilitation Advisory Panel, as well as focusing on broader governance issues.

- Approvals Working Group - examining duplication in approval processes across agencies, timelines, standards, the risk-based approach and improving transparency. Provision for alternative land use outcomes (for community benefit) is also being considered in the context of environmental outcome standards.

- Petroleum Environment Working Group - examining the implications of unconventional gas and petroleum specific issues, and feeding this information to the other working groups.

The RER Working Groups and overarching MAP are currently in session and are on track to finalise their scope of work by November 2012. For further information on the RER Program please visit http://www.dmp.wa.gov.au/15811.aspx

The announcement of the RER initiative is a clear commitment of DMP to implement the principles of best practice environmental regulation across all of its regulatory process (including those relating to compliance). Using this approach DMP is ensuring that the Auditor General's recommendations are being delivered in the context of an overall reform program, and ensures that best practice is applied across all regulatory processes.

PUBLIC

SPECIFIC PROJECTS

DMP continues to invest significant time and resources in Information and Communication Technologies (ICT) that support the delivery of its statutory functions, including improved transparency and compliance monitoring systems. Since 2009, the Environment Division has progressively implemented ICT solutions to streamline and improve transparency for the assessment process. This has included online lodgement functionality for exploration applications, mining proposals, mine closure plans and most recently, petroleum environment plans. In addition, online tracking of applications has also been implemented and is being expanded. DMP has a three year ICT implementation strategy (to 2015) to prioritise outstanding ICT projects. The next sections provide an update of progress on specific reforms referred to in Appendix 1 of the 30 April 2012 response to the Standing Committee on Environment and Public Affairs.

TRANSPARENCY

1.   Summary Annual Environmental Reports (AER)

DMP's current initiative to make AERs publicly available will require legislative reform, for which a Preliminary Impact Assessment has been completed and approved by the Regulatory Gatekeeping Unit. A draft of the regulations has now been provided by the Parliamentary Counsel's Office, and DMP is continuing to work through stakeholder consultation prior to implementing this initiative.

2.   Commercial in Confidence issues

Addressed in response of 30 April 2012.

3.   Publicly available documents

DMP is currently consulting with stakeholders through the RER Working Group process to develop a risk-based transparency framework for publicly releasing particular categories of proponent information. This will be in alignment with DMP's Strategic Paper on Transparency in Environmental Regulatory Decision Making Transparency. As referred to in the response of 30 April 2012, DMP is continuing to progress the public release of approved Mine Closure Plans.

4.   Post approval compliance monitoring information system

The Post Approval Compliance Monitoring information module of the Environmental Assessment and Regulatory System (EARS) is continuing to be progressed. Although it was earlier planned for this functionality to be completed by the end of 2012, the delivery is now scheduled for early in 2013. The delay is due to the scale of the information system development program being more extensive than initially proposed.

MONITORING AND ENFORCEMENT

5.   Inspection regime

Determining the base level of compliance inspections

DMP has established an interim target to annually inspect 100 per cent of high risk mine sites. This target will be updated following the implementation of the Reforming Environmental Regulation (RER) Program that will deliver a comprehensive, formalised risk assessment methodology across the department's entire environmental regulatory role.

Online lodgement and risk based review of annual environmental reports

DMP is developing an integrated information system to allow AERs to be lodged online. This will improve the consistency of AER reporting for proponents and the efficiency of AER handling and risk-based review by DMP. DMP commissioned new investment in July 2012, and an industry pilot group tested and provided feedback on the system in August 2012.

A considerable effort has also been placed into ensuring the accuracy of tenement holder information and reporting requirements before transitioning to the new online system. This data verification exercise has further enhanced the capability for reminder and overdue letters to be sent in a timely manner, and to the correct address. This program has now been substantially completed and online lodgement of AERs is still expected to be in place by the end of 2012.

DMP has substantially progressed implementation of the revised risk-based approach with respect to the selection of AERs for review. The expected August 2012 completion date for this approach has been revised to January 2013 as DMP has significantly increased the scope and functionality of the online system work. For instance, functionality is being built into the system to accommodate public availability of summary AERs (not part of the original scope, but is now included as a result of further stakeholder consultation).

Once operational, the online system will have capability to screen all AERs received to ensure they meet a consistent standard. Essentially, mining operators will be unable to lodge incomplete AERs. The system will also require mining operators to confirm or not confirm compliance with all statutory conditions of approval and will automatically flag to DMP those AERs where non-compliance has been reported. This will be an essential feature in prioritising which AERs are reviewed first and the level of review necessary. This level of automated screening is also beyond the original scope of the project, however will deliver greater efficiencies to compliance monitoring than was recommended by the Auditor General.

It is expected that the revised risk-based approach with respect to the selection of AERs for review will be operational by January 2013. Once operational, the system will be subject to ongoing review and continuous improvement.

Formalising the review and approvals procedures for inspection reporting

DMP is satisfied that its approach to reviewing and approving inspection reports is robust and allows for timely and equitable application of DMP's Enforcement Policy. DMP has continued to maintain its ISO 9001 accreditation for its Quality Management System (QMS) for its environmental assessment processes. DMP is currently planning to accredit all procedures including compliance and investigation activities within three years. A formal competency based training program is currently in development.

Finalise the risk assessment processes for inspection planning

The methodology for the base level of inspections is risk-based and aims to ensure DMP's compliance effort is targeted and proportionate. An inspection prioritisation model is currently used to identify high risk sites. For logistical reasons, lower risk sites may also be inspected opportunistically, based on their proximity to high risk sites.

The inspection prioritisation model combines mine site complexity and environmental management factors with the time since last inspection to assign an inspection prioritisation value. Examples of mine site complexity factors include the estimated life of mine, disturbance footprint, presence of problematic materials (such as potentially acid forming material, dispersive soils, sodic soils) and potential impacts to sensitive environments. Environmental management factors include the rate of progressive rehabilitation, management strategies for problematic materials, capacity for on-site monitoring and onsite environmental knowledge.

The frequency of compliance inspections to a particular site will be influenced by the level of compliance identified during an inspection. For example, an annual visit may be considered sufficient for a compliant site, whereas a non-compliant site may be visited several times in a given year to ensure stop work orders or directions to modify have been complied with.

The inspection prioritisation model is an interim methodology and will be reviewed again at the end of the year as the RER initiative will deliver the comprehensive, formalised risk assessment methodology across DMP's entire environmental regulatory role.

6.   **Information Management**

Addressed in response of 30 April 2012.

7.   **Monitoring of non-compliance**

Addressed in response of 30 April 2012 and item 5 above.

8.   **Regulation of State Agreement Acts**

In June 2012, DMP and the Department of State Development substantially completed its review of the environmental regulation of State Agreement projects. Consultation on the review is now being undertaken with the respective agencies and this will include formalising the agencies' operational working arrangements. The timing for implementation of these working arrangements will be scheduled within the broader recommendations arising from the RER inititative.

9.   **and 10. Mine Closure of non-Mining Act projects**

Addressed in response of 30 April 2012.

11.   **Abandoned Mines Policy**

As indicated in the DMP Annual Report 2011-12, there has been a delay in the publication of new Abandoned Mine Management Guidelines. DMP has been consulting with the Departments of Environment and Conservation and Regional Development and Lands on an initial draft. This framework continues to be developed and is expected to be finalised in 2012-13.

REVIEW OF MINING SECURITIES FRAMEWORK

12.   **Mining Securities Model**

Following a review of the current mining securities system and examination of other Australian and overseas systems, the Mining Rehabilitation Fund option was selected to secure ongoing funding for the State to rehabilitate abandoned mine sites in Western Australia, which will lead to better environmental and community safety outcomes.

On 15 August 2012, the Mining Rehabilitation Fund Bill was tabled in parliament and has progressed through the Legislative Assembly. The Bill is a culmination of a two year reform program, including 18 months of stakeholder consultation, to ensure that the mining securities framework for Western Australia is adequate. DMP considers that the proposed mining securities model, the Mining Rehabilitation Fund, will provide the greatest net benefit to the Government, industry and the community.