

## Amendments to the Mining Site Closure Law

*Summary: The current mining closure law states that the calculation of the lifespan of a mining project in Chile is based upon the “proven reserves”. This has resulted in an extremely onerous burden of proof obligation for the medium-scale mining industry in Chile, especially given the huge investments and costs involved in demonstrating the “reserves” for a mining project and the guarantees involved in securing the pending site closures. The administration of President Bachelet has proposed amending the current mining site closure law by adding the extractable economic resources to the reserves, with the objective of constituting the guarantees for closure.*

On November 11, 2012, the expected Mining Site Closure Law came into force in Chile. This marked a turning point in the history of the extractive mining industry.

The law, which included anticipated regulation, was very clear regarding its objective of granting the proper safeguards to the life, health and safety of people and the environment. This is achieved by means of the closure plans and the set of measures and actions destined to mitigate the effects arising from the development of the extractive mining industry in the locations where it is carried out, in order to ensure the physical and chemical stability of these places, in accordance with applicable environmental regulations.

This being the case, everything was on the right track. Nevertheless, there were certain elements which were difficult to determine, such as the “*lifespan of a mining project*” whose closure is anticipated.

Current regulations peremptorily establish the amount that should be left in guarantee in order to secure the pending site closures concerned. This is determined from the periodic estimates of the present value of the implementation costs for all of the closure measures contemplated for the period of the mining operation until the end of its 'lifespan', as well as the follow-up and monitoring required for post-closure.

*So, how do we calculate the lifespan of a mining project?* In accordance with the mining closure law currently in place, the calculation of the lifespan is based upon the “*proven reserves*”, proved plus probable, certified by a competent authority from the resources and mineral reserves industry, determined according to the annual levels of mineral extraction.

This calculation presents an extremely difficult burden of proof obligation for the medium-scale mining industry in Chile, especially given the huge investment and costs involved in demonstrating the “*reserves*” of a mining project, i.e., the identification of those minerals which are legally, economically and technically feasible to extract from a specific site.

The administration of President Michelle Bachelet has proposed amending the current mining site closure law by adapting it to current national circumstances. The suggestion is that medium-scale mining industry companies should be able to add the extractable

economic resources to the reserves, in order to constitute the guarantees that the law requires for the mining sites closure.

It is important to note that the current legislation has two areas of application: the first is the procedure for those mining operations with extraction or beneficiation capacity over 10,000 tons per month, and the second consists of a simplified procedure for operations with extraction capacity or benefit under 10,000 tons per month.

The addition of economically extractable reserves in the calculation method of the lifespan of a mining project would lengthen the terms of provision of guarantees for medium-scale mining companies. It would therefore modify the concept of the "*lifespan of the mining project*", establishing that it is a calculation made by the mining company, not only in terms of the reserves (as current law states), but also that the calculation should be based on mineral resources, i.e. those which are potentially valuable, and for which there are reasonable prospects for eventual economic extraction.

In this respect, the extent of the study required by law would be more limited and would simplify the determination of the "*lifespan of the mining project*", thereby favouring medium-scale mining in Chile.

If this legislative initiative comes to fruition, it is expected to partly alleviate the burden placed on medium-sized mining companies, helping them to comply efficiently with the complex regulations of the sector.

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The logo for Baker & McKenzie, featuring the company name in white serif font on a dark red rectangular background. The background has a subtle gradient and is flanked by yellow and green horizontal bars.

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