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Regulatory Affairs - Focus on Mining

June 30, 2023

Regulatory Affairs is a quarterly round-up of recent items of interest along with new and timely updates – is brought to you by our Regulatory Group.

This edition of Regulatory Affairs looks at key regulatory developments for the Canadian mining industry.

Cassels in the News

[Cassels Successfully Obtains Federal and Provincial Approvals for Marathon Palladium Project >](#)

Cassels successfully acted for Generation Mining Limited to obtain Federal and Provincial environmental assessment approvals for the Marathon Palladium Copper Project, which is located 10 kilometres from Marathon, Ontario.

[Cassels Provides Expert Insights on Recent Regulatory and Legislative Developments at CELF Conference >](#)

Marian Yuzda, from the Canada Energy Regulator, Marianne (Chuck) Davies, from Pembina Pipeline Corporation, joined Cassels to present a paper they authored titled “Recent Regulatory and Legislative Developments of Interest to Energy Lawyers” at the Canadian Energy Law Foundation Conference that took place from June 14–17, 2023 in Jasper, Alberta.

The paper will be published in the Alberta Law Review and includes an analysis of recent regulatory decisions and related judicial decisions, changes to regulatory and legislative regimes impacting energy law, natural resources, mining, and ongoing regulatory and legislative developments to watch for in 2023. The presentation highlighted opportunities and challenges posed by decarbonization and the ongoing energy transition, cumulative effects, Aboriginal law and Indigenous partnerships, and other natural resources and electricity-related developments.

[Jen Hansen Looks at the Potential Impact of Teck Resources’ Sale to Glencore with The Globe and Mail >](#)

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Jen Hansen has authored an article titled “Opinion: If Teck Resources is Sold to Glencore, Canada’s Loss Will Go Beyond Mining,” published by *The Globe and Mail*.

Writes Jen: “There is more to consider in the Glencore-Teck offer than just the return for shareholders.”

She goes on to outline the ways in which Teck Resources has championed and supported “initiatives both big and small in Canada” and also the ways in which Teck strives, “to do the right thing, on the global scale, representing all Canadians.”

[**Cassels Looks at How Canada Can Win the Race on Battery Metals, Critical Minerals with The Globe and Mail >**](#)

Cassels has authored an article titled “Opinion: Canada Needs to Win the Race for Battery Metals, Critical Minerals – Here’s How,” published by *The Globe and Mail*.

“Canada is ranked second in the world in supplying battery metals that will underpin the global energy transition and decarbonization. But we’re moving too slowly — it can take more than a decade to get a battery metals mine approved and built in Canada.” He goes on to outline three changes that governments – in partnership with Indigenous communities – can make to “help secure economic security and environmental sustainability for the world.”

[**Cassels Authors Canada Chapter of Chambers’ 2023 Mining Guide >**](#)

Darrell Podowski, Brian Dominique, Sam Chapman, and Joel Matson have authored the Canada chapter of Chambers’ Mining Practice Guide for 2023. The guide discusses a number of key legal factors for the mining lawyer, focusing on some of the most important mining jurisdictions around the world.

[**Cassels Serves as Editors & Authors of Canada Chapter of Getting the Deal Through: Mining 2023 >**](#)

Darrell Podowski, Brian Dominique, Lauren White, and Joel Matson served as editors of the 2023 edition of Lexology’s GTDT: Mining guide, and also authored the publication’s Canada chapter.

GTDT: Mining serves as a quick reference guide enabling side-by-side comparison of local insights into mining industry issues, including industry overview; legal and regulatory structure; mining rights and title; duties, royalties, and taxes; business structures; financing; restrictions; environment; health and safety, and labour issues; social and community issues; anti-bribery and corrupt practices; foreign investment; international treaties; and updates and trends.

[**Cassels Mining Lawyers Recognized Among the Best in Canada by Lexpert’s 2023 Directory >**](#)

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In the firm's strongest showing to date, 75+ Cassels lawyers were recognized as leaders in their field, including members of our Mining and Aboriginal teams, in the 2023 edition of the *Canadian Legal Lexpert Directory*.

In Case You Missed It

[An Update on the ESG Landscape for Mining Companies \(Cassels Webinar\) >](#)

On October 18, 2022, members of the Cassels Mining, ESG, and Aboriginal teams provided an update on the ESG landscape and practical advice and insights for mining companies, including: ESG and Indigenous communities: how to best position projects for success; ESG reporting/disclosure: standards and best practices; and an update on the Equator Principles: implications for companies seeking project finance.

[Quantitative Analysis in Negotiating Indigenous Benefit Agreements >](#)

The increase in both the volume and quality of reporting under the *Extractive Sector Transparency Measures Act* over the past few years has created new opportunities to benchmark and evaluate the terms of Impact Benefit Agreements. This data has the potential to help both mining proponents and Indigenous governments assess what constitutes a "fair deal" when compared against similar projects, promote trust in negotiations, and add a level of objectivity to the negotiation of IBAs.

[Finding a Role for Government in Indigenous Benefit Agreement Negotiations for Mining Projects >](#)

Governments are now increasingly seeking to promote or even mandate Impact Benefit Agreements. While the objectives may be commendable, government pressure or mandates aimed at resolving Impact Benefit Agreements introduce new challenges for all parties. Governments seeking to both promote responsible mining and the negotiation of impact benefit agreements will need to play a more active and balanced role, including through the use of new tools for benchmarking and comparing benefit agreements.

[Canadian Critical Minerals Strategy >](#)

Cassels' Canadian Energy Law Foundation paper covers the Canadian Critical Minerals Strategy, which was released in December 2022 to boost the production and processing of Canada's critical minerals, including lithium, graphite, copper, nickel, cobalt, and rare earth metals, given their potential to promote significant economic growth in the country. Critical minerals are key to the development of electric vehicle batteries and contribute to the global transition towards sustainability and clean technology. Following the release of the Strategy, the Government of Canada is seeking long-term, multi-stakeholder partnerships

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from industry, provincial, territorial, Indigenous and international partners to promote critical mineral development.

Spotlight On: Viviana Berkman

[Viviana Berkman](#) is an associate in the Business Law Group at Cassels. Viviana specializes in environmental, regulatory and Aboriginal law, and has experience in all aspects of natural resource project development, including mining projects across Canada. Viviana provides practical advice to developers on environmental assessments, project planning, federal and provincial permitting, regulatory enforcement as well as meeting regulatory and environmental requirements arising from project execution. Viviana has experience in drafting and negotiating agreements for the implementation of projects, including impact benefit agreements. Viviana has dealt with matters before various regulatory agencies at a federal and provincial level.

Team News

The Cassels Regulatory Group Welcomes Dana Poscente to the Team

[Dana Poscente](#) is an associate in the Business Law Group at Cassels and a member of the Regulatory team. She has experience with Federal Court judicial reviews, federal impact assessments, and regulatory and litigation matters across western Canada. Dana provides practical advice to project proponents, governments and Indigenous groups on project planning, obtaining necessary approvals, drafting, and negotiating agreements for the implementation of projects, as well as meeting regulatory and environmental requirements arising from project execution.

Stay Tuned!

The latest from our Regulatory Group: where we've been and where we'll be next.

- On October 12, 2023, Cassels will host a webinar examining regulatory updates in the food, drug and health products space. Stay tuned for updates!
- In fall 2023, Cassels will host a seminar covering Aboriginal and regulatory hot topics. Stay tuned for more info!

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The [Cassels Regulatory Group](#) brings expertise in connection with exploration, development, operations, and other regulatory aspects relevant to mining projects across Canada. Cassels holds an industry-leading position as legal advisor in the battery critical minerals sector in Canada, acting for some of the largest and most advanced companies in the Canadian market.

For more information, [please contact any member of our team](#). We're here to help.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.