ENVIRONMENT & MINING

CLIENT ALERT

JANUARY/2019

ENVIRONMENTAL AND MINING, MINING DAMS: SUSPENSION OF THE ENVIRONMENTAL LICENSING PROCEEDINGS IN MINAS GERAIS AND RESTRICTION TO UPSTREAM HEIGHTENING

Brazilians authorities of the Executive, Legislative and Judiciary Branches have taken actions to suspend and review the environmental licensing proceedings of mining tailing dams.

On January 30, 2019, the Minas Gerais State Secretary for Environment and Sustainable Development (SEMAD) issued Resolution No 2,762 suspending all environmental licensing proceedings connected with the regularization of tailings dams in the State of Minas Gerais, regardless of the construction method, until the approval of new rules regulating the environmental licensing of such activities.

Also, on January 30, 2019, SEMAD issued Resolution No 2,765 that determines the demobilization of all tailings dams that have used the upstream heightening method, as well as it orders entrepreneurs to present:

i. within 180 days the executive project and work plan along with the related work timeline regarding the demobilization of the undertaking; and
ii. within 360 days, the proposal for the new technique to be employed in the work plan, along with the work timeline of its implementation that shall be executed within 2 years.

On January 28, 2019, the 3rd Lower Court of Public Treasury and Government Corporations of the Municipality of Belo Horizonte granted a preliminary injunction to suspend the environmental licensing proceedings ongoing before SEMAD related to the approval or renewal of environmental licenses connected with the implementation or expansion of tailings dams using the upstream heightening method.

The Court's decision also orders SEMAD to present within 30 days the list of licensed mining ventures that employ the upstream heightening method that have been presented to SEMAD's approval before the enactment of State Decree No 46,993/2016.

PRACTICE AREA
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On January 28, 2019, the Brazilian Presidency, through the Brazilian Ministerial Council for Disasters Response and Monitoring, issued Resolution CMRS No 02/2019 creating the Subcommittee of Legislation Review empowered to draft the Bill of Law that shall update and review the Brazilian Dams Security Act (Federal Law No 12,334/10). Also, in reaction to the Brumadinho's dam burst, the Ministry of Mines and Energy (MME) issued Administrative Rule GM/MME No. 66/2019, ordering the mining and energy agencies to investigate all circumstances related to the collapse of Dam B1 of Mine *Córrego do Feijão* and to provide weekly reports to MME.

Finally, the Brazilian House of Representatives created an External Commission empowered to monitor the developments of Brumadinho's dam burst aiming to collecting information on the risks of the upstream heightening method in order to review the sector's legal framework.

Our mining and environmental teams are available to provide further clarifications and legal advices on such matter.

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