

BLOOM LAKE MINE ORDERED TO PAY \$7.5 MILLION ENVIRONMENTAL FINE

On December 19, 2014 the owners of Bloom Lake Mine were fined \$7.5 million by a Quebec Court after pleading guilty to 45 charges under the *Fisheries Act*. This is the largest penalty ever imposed in Canada for an environmental offense.

A December 22, 2014 [Environment Canada press release](#) states that the charges related to infractions at the Bloom Lake mine site including releases of non-compliant mining effluent and of ferric sulphate into fish bearing waters and failure to comply with an Inspector's Direction. One of the incidents investigated included the release of deleterious substances as a result of the breach of a tailings pond dam at the mine site.

An Inspector's Direction is an order authorized under section 38(7.1) of the *Fisheries Act* whereby a designated official can order that measures be undertaken to prevent or abate a release into waters frequented by fish or to remedy any adverse effects resulting from that release.

The immediate question that arises is whether this fine marks the beginning of a new era of substantial fines for environmental offenses. While the principles surrounding fines for environmental offenses in Canada are well settled, the application of those principles can be somewhat unpredictable. The key sentencing consideration surrounds the egregiousness of the offense. That is, the severity of harm to the environment (or potential severity of harm) and the due diligence efforts, or lack thereof, to avoid the occurrence of the offense. Submissions on sentencing centre on the characterization of the events surrounding the offense so as to attempt to appropriately place the offense on the continuum of egregiousness. The circumstances of a particular offense are measured against the circumstances arising in other previously decided cases. Going forward, Canadian environmental prosecutors likely will point to the Bloom Lake fine as the new context of measurement.