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Enforcement Branch
Ontario Securities Commission
20 Queen Street West
20th Floor
Toronto, Ontario
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DELIVERED VIA EMAIL: inquiries@osc.gov.on.ca

Re: Dundee Precious Metals (TSX:DPM)

On behalf of the organizations and communities set out in Appendix 1, we request that you investigate Dundee Precious Metals for statements in its press release of July 7, 2025, that did not disclose that there are serious ongoing legal proceedings that could result in a lengthy suspension or even permanent closure of its Loma Larga gold project in Ecuador.

Dundee Precious Minerals is incorporated in Canada, and its principal reporting jurisdiction is Ontario. In July 2021, Dundee purchased INV Metals and acquired the Loma Larga gold project in the ecologically sensitive paramo region in the province of Azuay in Ecuador. Paramos are high altitude wetlands that provide “essential ecosystem services such as water production for urban use, irrigation and hydropower generation.”¹

In 2022 communities in the area brought an action to suspend the mine for lack of community consultation and for concerns about drinking water downstream of the project. When the court ordered an interim suspension in February 2022, Dundee called it a

¹ “Paramos”, International Union for the Conservation of Nature (IUCN), <<https://iucn.org/content/paramos>>. See also, Douwe den Held and Anastasia Austin, “Tapirs, hummingbirds and a billion-dollar bedrock of gold: the Ecuador reserve that is now a battlefield over a new mine”, *The Guardian* (August 4, 2025) <<https://www.theguardian.com/environment/2025/aug/04/ecuador-cajas-mining-gold-silver-copper-exploitation-paramo-ecosystem-aoe>>

“pause” and said that the action was “without merit”.² In July 2022, the court ordered a suspension of the mine. The suspension was upheld on appeal in August 2023³ and was again upheld by the highest court, the Constitutional Court of Ecuador, in January 2024.⁴ As of August 2025, the mine has been suspended for over three years.

On July 7, 2025, Dundee distributed a press release⁵ that failed to disclose the possibility that Ecuadorian courts could continue the suspension for many years or even close the mine permanently. In the last few years, courts in Ecuador have permanently suspended mining projects for environmental reasons (the “los Cedros” case)⁶ and for lack of social license (the “Rio Blanco” case).⁷

² Press Release, “Dundee Precious Metals Provides Update on Drilling Activities at Loma Larga” (February 24, 2022), <<https://dundeeprecious.com/news-media/news-releases/dundee-precious-metals-provides-update-on-drilling-activities-at-loma-larga/>>

³ Sala Especializada De Lo Civil Y Mercantil De La Corte Provincial De Justicia De Azuay, no.proceso 01371202200067 (August 28, 2023), <https://drive.google.com/file/d/1iwhR1kxmRpyACdc-xWR9GFNI9iJmyK51/view?usp=drive_link>

⁴ Corte Constitucional del Ecuador, Caso 2785-23-EP (January 9, 2024), <https://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcnBldGE6J2FkbWlzaW9uMjAyNA-CsIHV1aWQ6JzdkMTc1ZGY0LWU4M2EtNGUzYS1iYWE1LWY5ZmY2NjAzMmVkMS5wZGYnfQ==>>

⁵ Press Release, “Dundee Precious Metals Announces Receipt of Environmental Licence for the Loma Larga Project and Provides Update on the Feasibility Study Results Timing” (July 7, 2025), <<https://dundeeprecious.com/news-media/news-releases/dundee-precious-metals-announces-receipt-of-enviro-10219/>>

⁶ “Cornerstone Capital’s exploration activities in Ecuador forest halted by Constitutional Court ruling”, Mining.com (December 7, 2021), <<https://www.mining.com/canadian-miners-exploration-activities-in-ecuadorian-forest-halted-by-constitutional-court-ruling/>>. For the original case, see Corte Constitucional del Ecuador, Sentencia 2436-19-EP/23 (“Los Cedros”) (December 6, 2023), <https://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcnBldGE6J3RyYW1pdGUUnLCB1dWlkOic0YTE5N2QzNi1iZmVklTRhYWYtOTA4ZC1hNjc2ZjQxODU5MTYucGRmJ30=>>; confirming Corte Constitucional del Ecuador, Sentencia 1149-JP-19/21 (November 10, 2021), parr.124 y 160, <https://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/eyJjYXJwZXRhIjoidHJhbWl0ZSIslV1aWQlOil2MmE3MmlxNy1hMzE4LTQyZmMtYjJkOS1mYzYzNWE5ZTAwNGYucGRmIn0=>>

⁷ Alexandra Valencia, “Exclusive: Chinese consortium Ecuagoldmining opens dispute with Ecuador over halted mine” Reuters (Feb 18, 2020), <<https://www.reuters.com/article/business/exclusive-chinese-consortium-ecuagoldmining-opens-dispute-with-ecuador-over-hal-idUSKBN20C2IS/>>. For court decisions, see Sala de Lo Civil Y Mercantil de La Corte Provincial del Azuay, Juicio No. 01333201803145 (“Rio Blanco”) (August 3, 2018) <<https://www.dropbox.com/scl/fi/txjl884j8xwkgj50hed3t/2-de-agosto-2018-Rio-Blanco-ct-Azuay-.pdf-1.pdf?rlkey=6z1smj24cbokfagl6skgd0q8t&st=iqzx99ac&dl=0>>.

The July 7, 2025, press release seemed to provide good news: “Dundee Precious Metals Announces Receipt of Environmental Licence for the Loma Larga Project ...”. With respect to permitting the project, the press release said:

The approval of the environmental licence follows the successful completion of the prior, informed indigenous consultation process in May 2025, and the fulfilment of the requirements of the August 2023 ruling by the Provincial Court of Azuay.

With respect to community engagement, the press release said:

DPM is committed to fostering strong, constructive relationships with local communities and government authorities.

The Management Discussion and Analysis (MD&A) released on July 31, 2025 predicts that the drilling campaign will begin in the “second half of 2025”.

Preparations are ongoing for a planned 23,000-metre drilling campaign at Loma Larga, with additional mapping, re-logging and drilling and site logistics planning. The drilling program will prioritize Geotechnical and hydrological monitoring holes, as well as metallurgical and resource infill and extensional drilling, and is planned to commence in the second half of 2025.⁸

But there are material omissions.

With respect to the environmental issues, the press release does not mention that the mine continues to be suspended until the courts accept two reports on how to guarantee safe drinking water to the communities downstream from the mine: the report filed by the Ecuadorian government and the hostile report from the municipal utility authority for the town of Cuenca (ETAPA). Until these reports are accepted, and reconciled, the mine remains suspended, possibly for years, while the appeals and other procedures wind their way to the Constitutional Court of Ecuador. The final result may be the permanent suspension of the mine. See Appendix 2 for more detail on how the courts are dealing with the environmental issues.

With respect to social license, the press release does not mention that there is a court challenge to the “completion of the prior informed indigenous consultation process.” Nor does Dundee mention the two referenda in the downstream communities. In 2019, the

⁸ Management Discussion and Analysis, June 30, 2025 (released on July 31, 2025).

<https://www.sedarplus.ca/csa-party/records/document.html?id=5a9e413ae04b604f7873ff6e83b0a01e7c1a4007da5b9f514b02ed5d10a58ddc>

canton of Giron voted against the mine, and forced INV to move the location of the proposed gold plant.⁹ In 2022, the city of Cuenca, which is only 30 km from the mine, voted overwhelmingly to oppose mining.¹⁰ The lack of social license evidenced by the vote in Cuenca may also result in a suspension or closure of the mine. See Appendix 2 for a description of how courts are dealing with the community opposition to the project.

Under Ontario law, Dundee is obligated to disclose court cases which may result in the lengthy suspension of the mine

The requirement to disclose the possibility that a court could close the mine is set out by the Superior Court of Ontario decision in *Dyck v. Tahoe Resources* (2021).¹¹ This case concerned the court-ordered closure of one of the world's largest silver mines in Guatemala. On May 8, 2017, the Justice and Corporate Accountability Project filed a complaint to the B.C. Securities Commission about Tahoe's failure to disclose Indigenous opposition to its Escobal silver mine, as well as widespread opposition outside of the area immediately adjacent to the mine.¹² Two weeks later, on May 24, a Guatemalan NGO filed a lawsuit asking for a permanent closure of the mine, citing the lack of Indigenous consent. Tahoe disclosed that a lawsuit had been filed but said that it was "without merit". Tahoe did not say that the suit asked for closure of the mine, and that there were legal precedents in Guatemala for mine suspension. When the mine was indeed suspended a few months later, Tahoe lost \$CDN 1.1 billion in value in one day. The mine is still closed, eight years later.

The Ontario court gave leave to Tahoe shareholders to commence a class action against Tahoe largely based on Tahoe's failure to disclose the true nature of the lawsuit in its May 24 press release. Justice Glustein found that:

⁹ "Referendum forces IVN to move proposed gold plant", *Mining Weekly* (March 26, 2019), <<https://www.miningweekly.com/article/referendum-forces-ivn-to-move-proposed-gold-plant-2019-03-26>>

¹⁰ "Voters backed prohibition on mining in Ecuador city of Cuenca, mayor says" (February 8, 2021), *Reuters* <<https://www.reuters.com/article/markets/commodities/voters-backed-prohibition-on-mining-in-ecuador-city-of-cuenca-mayor-says-idUSL1N2KE2C3/>>

¹¹ *Dyck v. Tahoe Resources Inc.*, 2021 ONSC 5712 at para 15 [Dyck], <canlii.org/en/on/onsc/doc/2021/2021onsc5712/2021onsc5712.html>

¹² Justice and Corporate Accountability Project, "Request to Investigate Tahoe Resources" (May 8, 2017), <dropbox.com/scl/fi/ekge1lzuphqrz2a7mu61a/FINAL-BCSC-Disclosure-Complaint-re-Tahoe-May-15-2017.pdf?rlkey=b7kss3va8eycx91ver8yif0tm&st=juauztre&dl=0>

1. It is reasonably possible that a trial judge could find that the contemporaneous disclosure did not advise shareholders of the specific risk of a lengthy suspension of operations at Escobal arising from the CALAS petition. [para. 138]
2. There was precedent in analogous cases before the Supreme Court and Constitutional Court [of Guatemala] to suspend the License on a provisional *amparo* [injunction], as well as before the Supreme Court to suspend the License on a permanent *amparo*. [para. 254]
3. [Tahoe Resources] also made a categorical declaration that they were “confident” that the CALAS litigation was “without merit”. It is reasonably possible that such language could be read as advising investors that Tahoe had little or no doubt as to the result of the litigation. [para.147]

There are parallels with Dundee’s lack of disclosure of the litigation relating to the Loma Larga mine:

1. Dundee did not provide an accurate summary of the court case and did not indicate that there could be a lengthy or even permanent suspension of the project.
2. There are precedents from the courts in Ecuador for permanently closing a mine for environmental reasons or for lack of social license.¹³
3. Dundee at no time indicated the seriousness of the legal challenges. When an interim suspension of its project was first imposed by the court in February 2022, Dundee called it a “pause” and said that the action was “without merit”.¹⁴

Is there a possibility that Dundee could proceed with the project before the courts lift the suspension?

Relying on government support to continue operations is a perilous endeavour, when the courts have not yet finished their deliberations and when there is massive public

¹³ See “Los Cedros” case, *supra* fn 6 and the “Rio Blanco” case, *supra* fn 7. In addition, see Corte Constitucional del Ecuador, Sentencia No. 22-18-IN/21 (September 8, 2021), striking down legislation that would have threatened coastal mangroves; Corte Constitucional del Ecuador, Sentencia No. 32-17-IN/21 (June 9, 2021) striking down legislation that would have allowed mining companies to change the flow of rivers.

¹⁴ Press Release, “Dundee Precious Metals Provides Update on Drilling Activities at Loma Larga” (February 24, 2022), <<https://dundeeprecious.com/news-media/news-releases/dundee-precious-metals-provides-update-on-drilling-activities-at-loma-larga/>>

opposition to the project. For example, First Quantum Minerals had a \$10 billion copper project in Panama and had the backing of the government of Panama. Despite a preliminary court order finding that its contract was illegal, First Quantum kept operating with the blessing of the government. However, this decision appears to have inflamed the situation. Indigenous opposition near the mine, combined with a national movement against the mine, basically made it impossible for the mine to ship its minerals. This was followed by a permanent suspension by the Supreme Court in Panama.¹⁵ The company's stock dropped 66% (US\$28.21 to US\$9.53) between October 26 and December 12, 2023.¹⁶

Dundee is relying on an outdated Feasibility Study Technical Report (NI 43-101) drafted by INV in 2020

Dundee purchased the Loma Larga project in July 2021. Since February 2022, exploration activities at the Loma Larga project have been suspended. In other words, Dundee has operated the mine for less than one year and its operations have been suspended for more than three years.

It is still relying on the NI 43-101 prepared by INV Metals in 2020.¹⁷ Dundee has expressed confidence in this report even though it is badly out of date. For example, the NI 43-101 states, “[b]ased on the available information, there are currently no environmental and social considerations that pose a material threat to the Project.”¹⁸ Both environmental and social issues have resulted in a court-ordered suspension of the mine. Although Dundee has promised an update to the NI 43-101 since its 2023 Annual Information Form,¹⁹ none

¹⁵ “First Quantum halting dividend, selling mines amid Panama woes” *Financial Post*, (January 15, 2024), <<https://financialpost.com/commodities/mining/first-quantum-halting-dividend-selling-mines-panama-woes>>

¹⁶ Georgia Williams, “The global impact of Canadian mining”, *Mining Magazine*, (Feb. 13, 2024), <[HTTPS://WWW.MININGMAGAZINE.COM/COMMUNITY/NEWS/4173621/GLOBAL-IMPACT-CANADIAN-MINING](https://www.miningmagazine.com/community/news/4173621/global-impact-canadian-mining)>

¹⁷ Se Entrega el Estudio de Impacto Ambiental de Loma Larga, [The Environmental Impact Study for Loma Larga is submitted] *Minenergía* (April 26, 2021), <<https://www.minergiaec.com/se-entrega-el-estudio-de-impacto-ambiental-de-loma-larga/>>

¹⁸ NI 43-101 Feasibility Study Technical Report - Dundee Precious Metals Inc - Loma Larga Project, Azuay Province, Ecuador (issued date: 29 November 2021; effective date: 8 April 2020): p.402-403, <<https://dundeeprecious.com/site/assets/files/9920/loma-larga-technical-report-112921.pdf>>.

¹⁹ Dundee Precious Metals, Annual Information Form 2023, at p.6, says that Dundee has “updated the feasibility study and continue to work on optimization opportunities for Loma Larga”, <<https://dundeeprecious.com/site/assets/files/16493/2023-annual-report.pdf>>.

has been forthcoming. The July 7, 2025 press release has repeated the promise to update the feasibility study. As of August 11, there is no updated NI 43-101 on SEDAR.

In summary

Dundee is relying on an outdated NI 43-101 which does not address the environmental and social license concerns that have already suspended the mine. The Loma Larga project has been suspended since February 2022, and Dundee has not disclosed that ongoing and pending litigation could delay the project for many years and may result in the closure of the mine. The new NI 43 101 must indicate the financial impact of the possible lengthy suspension of the mine.

The Ontario Superior Court in *Dyck v. Tahoe Resources* found that disclosure of the possibility of a lengthy or permanent suspension from a court decision was material information for investors.

Yours truly,

A handwritten signature in black ink, appearing to read 'Shin Imai', with a stylized flourish at the end.

Shin Imai
Barrister and Solicitor

Appendix 1: Complainants

MiningWatch Canada

Cabildo Popular por el Agua de Cuenca

Federación de Organizaciones Indígenas y Campesinas del Azuay (FOA)

Fundación Savia Roja

Junta Administradora de Agua Potable de las parroquias de Victoria del Portete y Tarqui

Red Pluriversa Chela Calle

Yasunidos Guapondelig

Escuela de Agroecología y Biosalud de San Marcos

Escuela de Mujeres Agroecología de Leg Tabacay

Escuela de Agroecología Virgen de la Merced

Escuela de Agroecología de Guayara 2

Escuela de Agroecología de la UNOIC-S

Escuela de Agroecología de Mujeres Sisa Wayra

Escuela Agroecología, Liderazgo y Salud Ancestral de Mujeres de la Ucorsayta

Escuela de Agroecología de Tenta

Escuela de Agroecología de Mujeres Asomupkisa

Escuela de Agroecología y Medicina Ancestral Hermano Miguel

Escuela Agroecología de Mujeres Defensoras del Kimsacocha

Red Agroecología del Cañar

Escuela Agroecología de la Libertad

Escuela de Agroecología de Bulán

Appendix 2: Background Information

There are two sources of legal threats to the project.

- (i) Environmental concerns relating to mining in the ecologically sensitive paramos, including the guarantee of safe drinking water for the 660,000 people who live downstream from the project.
- (ii) The lack of social license and faulty “consultations” with the Indigenous community of Escaleras.

This appendix provides context for the disputes and discusses prior decisions of the courts of Ecuador on these matters.

(i) Environmental concerns

There is a recent Ecuadorian precedent for suspending the licenses of a mining company based on threats to the environment. On December 23, 2023, a year after the Loma Larga project was suspended, the Constitutional Court of Ecuador decided to revoke the water and environmental rights of Canadian mining company Cornerstone International in the ecologically sensitive Protected Forest of Cedros (“Los Cedros”). The court found that the project had failed to consult, and also threatened various constitutionally protected environmental rights. The company was ordered to remove its equipment and remediate the sites where it had already begun work.²⁰

Dundee inherited licenses and permits to explore a project upstream from local farming communities that use the water for drinking and irrigation, and upstream from Cuenca, the third largest city in Ecuador. The Environmental Impact Assessment (EIA) inherited by Dundee from INV Metals established a very narrow “zone of influence” for its project, which excluded the farming communities only a few kilometers from the project and excluded the entire downstream region of Cuenca, only 30 km away.

²⁰ “Cornerstone Capital’s exploration activities in Ecuador forest halted by Constitutional Court ruling”, Mining.com (December 7, 2021), <<https://www.mining.com/canadian-miners-exploration-activities-in-ecuadorian-forest-halted-by-constitutional-court-ruling/>> . For the actual court decisions, see the “Los Cedros” case, Corte Constitucional del Ecuador, Sentencia 2436-19-EP/23 (December 6, 2023) (“Bosque Protector Los Cedros”), <

Four third party technical reviews have criticized Dundee's EIA for its narrow "zone of influence" and for its lack of credible information on how the company plans to prevent detrimental impacts on water sources during the life of the project and after closure.²¹

In February 2021, local community organizations responsible for irrigation, the president of the Indigenous community of Escaleras and the Federation of Indigenous and Campesino Organizations in Azuay (FOA, Federacion de Organizaciones Indigenas y Campesinas del Azuay) brought a constitutional action, asking the court to nullify the licenses granted to Dundee. The decision at the first level of court on February 22, 2022 ordered that the project be suspended until the state completed a consultation of the community on the constitutional right to a healthy environment and a separate consultation with Indigenous people to obtain their consent.²² Dundee and the state appealed this decision, but the communities were successful again as the Provincial Court of Justice of Azuay on August 28, 2023 not only confirmed the need for consultation, but in addition, required the production of studies showing the current state of the paramos in the Quimsacocha National Recreation Area and showing that the provision of water in the surrounding region could be safeguarded.²³ An appeal by Dundee and the government of Ecuador to the Constitutional Court of Ecuador failed on January 19, 2024, leaving the mine suspended.²⁴

In its press release of August 29, 2023, Dundee disclosed the court case with the reassuring headline, "Dundee Precious Metals Receives Court Decision on Permitting Process for the Loma Larga Project in Ecuador". The press release only vaguely referred to additional studies relating to the Quimsacocha National Recreation Area.

²¹ James Kuipers, Kuipers and Associates, June 2016, <https://drive.google.com/file/d/1ejXeZiP61UiiVbjAwFUmZY61xh_R2eZg/view?usp=drive_link>; Steven Emerman, Malach Consulting, October 6, 2019, <https://drive.google.com/file/d/1QIL4woHq2prnqdTq4t0jwxWVyl-sSkag/view?usp=drive_link> Corporación Geoambiental TERRAE, "Evaluación De Los Aspectos Hidrológicos, Geoambientales y de Riesgos del Estudio de Impacto Ambiental y Plan de Manejo Ambiental del Proyecto Minero Loma Larga" (Julio de 2022), <https://drive.google.com/file/d/1_ZcZGY5nxSLnEqGR1Vi9sCLWLhWmUNj-/view?usp=drive_link>; ETAPA (Empresa de Telecomunicaciones, Agua Potable, Alcantarillado y saneamiento de Cuenca) "Informe Técnico Sobre La Sustentabilidad de Las Fuentes de Agua Que Nacen en Quimsacocha Bajo El Contexto de La Fase De Explotación del Proyecto Minero De Loma Larga" (August 22, 2024), <https://drive.google.com/file/d/1v1b3GL-aEQjIL-E-C12nC-ZxZJHL5loh/view?usp=drive_link>

²² Juicio No: 01371202200067, Unidad Judicial De Trabajo Cuenca (July 20, 2022), <<https://drive.google.com/drive/u/1/folders/1gLw4Er6z81mi11CLnmSU0i1R2OgVJNIV>>

²³ "Ecuador court orders consultations for US\$323m Loma Larga project", *BNAmericas* (August 30, 2023), <<https://www.bnamericas.com/en/features/ecuador-court-orders-consultations-for-us323mn-loma-larga-project>>

²⁴ Corte constitucional del Ecuador Caso 2785-23-EP (January 19, 2024), <https://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcnBldGE6J2FkbWlzaW9uMjAyNCcsIHV1aWQ6JzdkMTc1ZGY0LWU4M2EtNGUzYS1iYWE1LWY5ZmY2NjAzMmVkMS5wZGYnfQ==>>

... *certain additional reports* on the impact of the project on water resources and the Quimsacocha National Recreation Area would need to be provided by the Ministry of Environment, Water and Ecological Transition [MAATE] to the Court prior to advancing the project to the exploitation phase.²⁵ (emphasis added)

This statement omits crucial information about the impact of the court decision.

In fact, the order from the Provincial Court of Azuay was much more specific, holding that the Ministry of Environment, Water and Ecological Transition (MAATE) must collaborate with the utility company for the municipality of Cuenca, ETAPA (Empresa de Telecomunicaciones, Agua Potable, Alcantarillado y Saneamiento de Cuenca) to submit a report showing how the human right to access safe water would be guaranteed in the region of Cuenca.²⁶ ETAPA is the municipal corporation that provides essential services, such as water, sewage and telecommunications, to the 660,000 inhabitants of the region of Cuenca. Dundee maintains that Cuenca is not affected by its project and there is no need to address water and tailings issues relating to the Cuenca region.

In August 2024, ETAPA released a report that heavily criticized the technical gaps in Dundee's EIA: the lack of recognition of the possibility of leaching of heavy metals such as arsenic and the lack of study on impacts outside the limited area adjacent to the mine. The report concluded by quoting a prior engineering report that said:

Considering all the shortcomings identified in the EIA throughout this evaluation, it is evident that the Loma Larga mining project cannot be carried out and that it is not viable, given the uncertainties it raises regarding potential environmental and human impacts, and the risk it poses to communities in Azuay province.²⁷

²⁵ Dundee Precious Metals, News Release, "Dundee Precious Metals Receives Court Decision on Permitting Process for the Loma Larga Project in Ecuador" (August 29, 2023), <<https://dundeeprecious.com/news-media/news-releases/dundee-precious-metals-receives-court-decision-on-permitting-process-for-the-loma-larga-project-in-ecuador/>>

²⁶ Unofficial English translation: "As the Quimsacocha National Recreation Area is a source for water that serves both for domestic consumption, watering, irrigation, feeding, etc., and is considered as a water reserve and wetland zone, the Ministry of the Environment, Water and Ecological Transition [MAATE], will present a report [to the first level court] that addresses the sustainability of the ecosystem and how the priorities for water use and utilization will be guaranteed; will detail actions to enable planning, regulation and control of the water; and will address the conclusions issued in the report presented in ETAPA EP by Ing. Galo Ordoñez; for the fulfillment of this remedial measure, ETAPA E.P., will guarantee access to the human right of water in the Canton of Cuenca Canton, requiring its manager to identify the public officials who will be responsible for this study and the following study, within fifteen days of receiving the notice; with activities to be carried out in coordination and collaboration." Sala Especializada De Lo Civil Y Mercantil De La Corte Provincial De Justicia De Azuay, no.proceso 01371202200067 (August 28, 2023), <https://drive.google.com/file/d/1iwhR1kxmRpyACdc-xWR9GFNI9iJmyK51/view?usp=drive_link>

²⁷ ETAPA. "Informe Técnico sobre la sustentabilidad de las fuentes de agua que nacen en Quimsacocha bajo el contexto de la fase de explotación del proyecto minero de Loma Larga" (August 22, 2024) p.140,

In other words, the judge that is responsible for verifying the implementation of the judgement of the Provincial Court of Azuay is going to hear from ETAPA that Dundee's current EIA is incompatible with the administration and the guarantee of the human right to water in the Canton of Cuenca. Whatever decision the judge makes, it is probable that the dispute will eventually end up before the Constitutional Court of Ecuador which may follow its decision in the Los Cedros case and suspend the project permanently.²⁸

(ii) Lack of social license

Dundee has not disclosed the extent of community opposition to mining in the area, and the legal risks this entails. Community opposition has been a constant for the Loma Larga project, but Dundee has resisted consulting outside of its narrow "area of influence". For example, it refused to recognize the community of Escaleras as Indigenous and argued in court that consultation was not necessary. Recently, the hostility to Dundee was exacerbated when the Globe and Mail disclosed arsenic poisoning in Dundee's former processing plant in Namibia, and Dundee's refusal to take responsibility for, or provide information on, the extent of arsenic left on the site.²⁹

In its July 7, 2025 press release, Dundee discloses what it says were successful consultations in the Indigenous community of Escaleras, near the mine.³⁰ The Ecuadorian Chamber of Mines made the improbable claim that there was 100% support from Indigenous community. Part of the consultation was conducted with heavy military presence, and the claim of unanimous support was immediately contradicted by the Council of the Escaleras community indicating that they were never consulted. The Council has informed the judge who is responsible for ensuring the implementation of the order of the Provincial Court of Azuay.³¹ If the consultations are found to be faulty, there could be lengthy delays as consultation with Indigenous people is mandatory in Ecuador. Dundee has not disclosed this fact.

<<https://www.etapa.net.ec/wp-content/uploads/2025/01/Informe-Quimsacocha-ETAPA-EP-ago24-signed-signed-signed.pdf>>

²⁸ See 163 of the *Ley Orgánica de Garantías Jurisdiccionales y Control Constitucional* which provides for a proceeding before the Constitutional Court of Ecuador a failure to discharge court orders or breaches of the constitution.

²⁹ Geoffrey York, Samuel Schlaefli, "In Namibia, a Canadian copper company leaves a legacy of toxic waste", *Globe and Mail*, (January 15, 2025), < <https://www.theglobeandmail.com/business/article-dundee-copper-mine-namibia-arsenic-toxic-waste/>>

³⁰ "Dundee's gold project in Ecuador wins local backing", *Mining.com*, (May 20, 2025) <<https://www.mining.com/subscribe-login/?id=1179337>>

³¹ <https://www.facebook.com/share/p/1ER7ZHshmG/>

Perhaps an even greater legal risk resides in a precedent from the 2018 case which suspended the Rio Blanco project because local communities voted against mining in their region.³² In this case, Chinese mining company Ecuagoldmining had licenses to explore for gold and silver in an environmentally sensitive area. However, a local referendum showed that 67.8% of people were opposed to mining in the area, and the court revoked the licenses. Ecuagoldmining has commenced international arbitration.³³

In the case of Dundee, its outdated NI 43-101 says that “the perception of the Project in the Area of Direct Influence is largely positive.”³⁴ However, mining in the province of Azuay, particularly in sites near water sources and watersheds, has been a contentious issue since the 1990s. The first community referendum was held in 2001, when over 90% of participants in the communities of Victoria del Portete and Tarqui, located few kilometers from the project, voted against mining.³⁵

More recently, there have been important referenda in the two regions (cantons) adjacent to the mine. In 2019, the Canton of Giron voted 86,79 % against mining, and INV was forced to relocate its proposed gold plant.³⁶ In 2021, in the Canton of Cuenca, 80.03% of the population voted in favor of prohibition against mineral exploitation in the sources of water where Loma Larga is located.³⁷

³² Alexandra Valencia, “Exclusive: Chinese consortium Ecuagoldmining opens dispute with Ecuador over halted mine” *Reuters* (Feb 18, 2020), <<https://www.reuters.com/article/business/exclusive-chinese-consortium-ecuagoldmining-opens-dispute-with-ecuador-over-hal-idUSKBN20C2IS/>>. For the original court decisions, see Sala de Lo Civil Y Mercantil de La Corte Provincial del Azuay, Juicio No. 01333201803145 (August 3, 2018) <<https://www.dropbox.com/scl/fi/txjl884j8xwkgj50hed3t/2-de-agosto-2018-Rio-Blanco-ct-Azuay-.pdf-1.pdf?rlkey=6z1smj24cbokfqgl6skgd0q8t&st=iqzx99ac&dl=0>>.

³³ “Corte ecuatoriana ratificó la suspensión del proyecto minero Río Blanco” [“An Ecuadorian court ratifies the suspensión of the Rio Blanco mining Project”], *Dejusticia* (August 15, 2018), <<https://www.dejusticia.org/corte-ecuatoriana-ratifico-la-suspension-del-proyecto-minero-rio-blanco/>>

³⁴ *NI 43-101 Feasibility Study Technical Report - Dundee Precious Metals Inc - Loma Larga Project, Azuay Province, Ecuador* (issued date: 29 November 2021; effective date: 8 April 2020): p.402-403, <<https://dundeeprecious.com/site/assets/files/9920/loma-larga-technical-report-112921.pdf>>.

³⁵ “Decades of Protecting Water and Opposing Mining in the Páramo de Kimsakocha”, *MiningWatch Canada* (December 6, 2023), <<https://www.miningwatch.ca/2023/12/6/decades-protecting-water-and-opposing-mining-paramo-de-kimsakocha>>

³⁶ “Referendum forces IVN to move proposed gold plant”, *Mining Weekly* (March 26, 2019), <<https://www.miningweekly.com/article/referendum-forces-ivn-to-move-proposed-gold-plant-2019-03-26>>

³⁷ “Voters backed prohibition on mining in Ecuador city of Cuenca, mayor says”, *Reuters* (Feb.8 2021), <<https://www.reuters.com/article/markets/commodities/voters-backed-prohibition-on-mining-in-ecuador-city-of-cuenca-mayor-says-idUSL1N2KE2C3/>>

At the time of the Cuenca referendum, Dundee was already in possession of the *exploration* license but both referenda apply to *exploitation*, and leave open the possibility of a permanent suspension by the Constitutional Court of Ecuador as happened in the Rio Blanco case.³⁸

When Dundee announced that it was ready to begin operations in 2025, the Canton of Cuenca Council passed a resolution reaffirming its opposition to the project, saying that it would do whatever is necessary to protect the sources of water for its population.³⁹

None of this opposition has been disclosed by Dundee, let alone the fact that these referenda may result in the suspension of the mine by a court.

³⁸ Sala de Lo Civil Y Mercantil de La Corte Provincial del Azuay, Juicio No. 01333201803145 (“Rio Blanco”) (August 3, 2018) <<https://www.dropbox.com/scl/fi/txjl884j8xwkgj50hed3t/2-de-agosto-2018-Rio-Blanco-ct-Azuay-.pdf-1.pdf?rlkey=6z1smj24cbokfqgl6skgd0q8t&st=iqzx99ac&dl=0>>; Constitutional Court of Ecuador, CASO No.6-20-CP (September 18, 2020), <<https://www.dropbox.com/scl/fi/77rqknrq5uqjak7w5pt7c/18-09-2020-caso-6-20-CP-consulta-Cuenca.pdf?rlkey=ug9vn9lu1j0oxcnhsclwyrygx&st=krkzrnid&dl=0>>

³⁹ “Concejo Cantonal de Cuenca rechaza actividades de Loma Larga” [“The Council of the Canton of Cuenca rejects activity at Loma Larga”], *El Comercio* (16 de enero 2025) <<https://www.elcomercio.com/actualidad/ecuador/concejo-cantonal-cuenca-rechaza-actividades-loma-larga/>>