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EFTA SURVEILLANCE
AUTHORITY

Ministry of Climate and Environment
Postboks 8013 Dep
N-0030 Oslo
Norway

Dear Sir/Madam,

Subject: Second Request for Information - Complaint against Norway concerning Directive 2006/21/EC on the management of waste from extractive industries

By letter dated 29 March 2017, the EFTA Surveillance Authority (“the Authority”) received a complaint from 11 organisations concerning the permits granted for the disposal of mining waste in Førdefjord, Ranfjord and Repparfjord. The Authority informed the Norwegian Government of this complaint in a letter dated 6 April 2017 (Document No 851380).

In a request for information dated 25 September 2017 (Document No 871583), the Authority invited the Norwegian Government to provide information on the implementation and enforcement of Articles 5 and 7 of the Mining Waste Directive¹.

The Norwegian Government submitted its reply on 16 October 2017 (Document No 878329) (Your Ref 17/2763). Moreover, the case was discussed at the package meeting on 27 October 2017. The Norwegian Government subsequently submitted a letter dated 15 January 2018 (Document No 893922) (Your Ref 172763) endeavouring to clarify certain points raised at the package meeting. In addition, 24 submissions of documentation were sent to the Authority (12 submissions for Førdefjord and 12 submissions for Repparfjord).

The Authority has assessed the letter and the supporting documentation and found that these have raised further questions. The Authority therefore invites the Norwegian Government to provide the information to the following questions.

For Rana Gruber, the Norwegian Government states that a waste management plan was produced in 2013, and then revised and approved in January 2017. The Authority invites the Norwegian Government to submit a copy of this revised waste management plan.

The Authority reiterates that Article 7 of the Mining Waste Directive sets out clearly that no waste facility shall be allowed to operate without a permit granted by the competent authority. The permit application shall contain a waste management plan as specified in Article 7 (2). The competent authority shall only grant a permit if it is satisfied that the operator complies with the relevant requirements pursuant to Article 7(3). The Norwegian Government stated in its letter dated 15 January 2018 that waste management plans have

¹ Directive 2006/21/EC on the management of waste from extractive industries

yet to be produced for the Førdefjord/Repparfjord cases. The Norwegian Government is invited to confirm whether mining operations have begun at either site. If the answer is yes, please confirm that waste management plans have been approved.

The Authority welcomes further explanation on the license granted under the Mineral Act² with regard to the operation of the facility. The Norwegian Government has written in its letter of 15 January 2018 that relevant issues in this regard would be the annual amount of volume, the planning of running the facility and its security provisions. Moreover, the Norwegian Government states that the permit granted by the Mineral Act will in fact determine the content of the waste management plan. The Norwegian Government is invited to confirm that the application for a license granted under the Mineral Act is the final permit application in these procedures before mining operations can begin.

There is seemingly no requirement to produce a waste management plan in the Mineral Act. This is set out in Chapter 17 of the Waste Regulation³, and is an integral part of the permit granted under the Pollution Control Act as stated by Section 17-4 of the Waste Regulation. In this regard, the Norwegian Government is invited to explain why permits under the Pollution Control Act were granted without waste management plans, when this is the Act requiring such plans.

The Norwegian Government maintains in its letter of 15 January 2018 that, with regard to Førdefjord and Repparfjord, the information required by Article 5 of the Mining Waste Directive was already part of the respective applications. The Norwegian Government is invited to provide further, more detailed explanations on where the specific requirements of Article 5 are to be found and inform the Authority how the different permit authorities would be able to understand all this scattered information in a coherent manner, weighting waste prevention as a benchmark for the different assessments.

The Norwegian Government is invited to submit the above information, as well as any other information it deems relevant to the case, so that it reaches the Authority by 28 September 2018.

Please enclose copies of any relevant national legislation, including English translations if available.

Yours faithfully,

Gunnar Þór Pétursson
Director
Internal Market Affairs Directorate

This document has been electronically authenticated by Gunnar Thor Petursson.

² Lov 19 juni 2009 nr. 101 om erverv og utvinning av mineralressurser (mineralloven) LOV-2009-06-19-101.

³ Forskrift 1 juni 2004 nr. 930 om gjenvinning og behandling av avfall (avfallsforskriften) FOR-2004-06-01-930