

April 15, 2024

Dear IRMA Secretariat,

We are writing in regards to the IRMA Albemarle Audit Report, released in July 2023. The Albemarle audit was completed in 2023, and Albemarle received an IRMA 50 score, meaning that the mine met all 40 of the critical requirements, and 50% of the principal areas of the Standard. Members of our mining team at Earthworks have reviewed the audit report, and have compiled questions, feedback and comments for IRMA in regards to the audit results and methodology. Our comments, while specific to the Albemarle audit which we have closely reviewed, have implications for other sites being assessed by IRMA as well. We write this with the intention of requesting clarifications and providing constructive feedback to strengthen future audits and reports.

Our most significant concerns relate to 1) how the IRMA auditors were able to verify compliance with the Free, Prior and Informed Consent requirements of the IRMA Standard, 2) the heavy reliance on corporate self-reporting and 3) other key aspects of the audit methodology. We have attached a longer list of concerns that correspond to specific markers and scores. While we do not expect IRMA to respond to each point in that list, we would appreciate a written response to the key concerns raised in the "Audit Methodology" section.

Audit Methodology

As per IRMA's audit process, the operating company reviewed preliminary audit results prior to publication to allow for corrective changes and adjustments. We understand that this process is built into the audit in order to promote continuous improvement but we have some suggestions about how to improve access to information regarding the corrective period. In order to increase transparency around the audit process, the audit should include:

- Documentation of the changes suggested to the operating company during the corrective period;
- A list of the changes and corrective actions that were made; and
- A list, with reasoning from the operating company, of suggested changes that were not implemented.

These steps would help stakeholders see the ways in which the operating company is and is not engaging in safer practices. Most importantly, it would help other stakeholders understand the potential repercussions for the operating company if suggested changes are ignored (ie: a lower score on those markers in the final audit results).

The onsite audit took place April 25-29, 2022. We are concerned that this is a very short amount of time to interview mine management, workers, community representatives and members, local NGOs, government agencies, assess compliance on the ground, and to visit operational areas. We understand that a follow up visit was conducted October 4-6, 2022, but this visit was focused on assessing changes and improvements made by the operating company during the

corrective action period. We would like more information regarding how auditors determine the length of time necessary to perform the in-person assessment.

Furthermore, many of the indicators rely on self-reporting by the operating company rather than on-the-ground verification of compliance. Operating companies do not always complete adequate and thorough environmental social impact assessments or engage in robust monitoring, and having policies on paper is quite different from implementation. This raises concerns about the validity of relying on self-reported data and information. IRMA should not be relying on company self-reporting, but instead should independently verify the accuracy of such reports. Below are a few examples of what we mean by this:

- Section 2.1 verifies that an ESIA has been completed as is stipulated in Chilean regulations, but it is unclear if the information in the ESIA, particularly the potential impacts of the project (2.1.6.1), has been independently reviewed and verified.
- Section 2.1.4.2. doesn't specify that auditors must verify that studies meet best practice standards, just that they exist.
- Section 2.6.2.1 regarding closure plans is designated as a critical requirement. The audit report states that there is a closure plan in place that protects human health and environment. However, it is also unclear who has reviewed and approved of this plan, particularly if someone aside from the operating company has reviewed this plan.

IRMA audits aim to provide transparency into mining operations. In order to achieve this, there needs to be more disclosure of how the auditors were able to verify claims made by the operating company. To this end, auditors should cite their sources and provide justifications for audit results in a standardized way that doesn't create more work for those reviewing the information. For example, the audit names external reports commissioned to fill knowledge gaps on human rights, Indigenous rights, FPIC compliance, and cultural heritage (Miller and Chevalier human rights risk assessment, Sebastian Donoso report, 2016 Archeology Report) but it does not provide links to the actual reports. Doing so would add value for frontline communities and other stakeholders, and would help readers of the audit report better understand the reasoning behind certain scores. For example, auditors note that the Sebastian Donoso report identifies problems with how the company is fulfilling its obligations to vulnerable groups in accordance with the IRMA Standard. It is very difficult for communities or other stakeholders to engage with the company on improving these areas without having access to the additional information contained in Donoso's report.

The operating company and, as a result, the auditors rely on the *convenios* signed by the Mesa de Trabajo Permanente (MTP) of the Consejo de Pueblos de Atacameños as verification of FPIC, broad social support, ongoing engagement, information sharing, benefits sharing, the functionality of the grievance mechanism etc. We understand and respect that the *convenios* are not public at the request of the communities themselves. We are seeking to understand how or whether the auditors took into account reports from media and local civil society organizations, as well as the direct feedback from some community members (as reported in

interviews conducted by the auditors) that they did not feel represented by the MTP and did not have access to information about mine operations. There is even mention in the audit report of interviews with community members in which they state that further engagement with communities is needed and desired (1.2.1.3 and 1.2.2.2). Despite this, Albemarle received a high score on the FPIC section - 91%. IRMA's audits should provide more information about how the FPIC process was analyzed, and how the issues identified in the audit report with the *convenios* and the MTP were factored into the final FPIC score.

Audit Results and Score

As we reviewed the report, we identified a number of scores and their corresponding explanations that we perceived to be incomplete, confusing or contradictory. Often it is unclear how the auditor reached the conclusion that led to the given score. Below we provide a number of examples and the questions that came up for us. Earthworks is providing these examples to highlight challenges in terms of making the report an accessible and useful tool that improves transparency and access to information for communities and other stakeholders. We do not expect IRMA to reply to each point listed below.

To improve report accessibility and readability, we suggest that IRMA add short summaries at the beginning of each of the 4 main sections of the report that highlight what the operating company did and did not score well on, including a short explanation of how the overall score for that section was reached.

Principle 1: Business Integrity

- 1.1.1.1 The operating company received a substantially meets score, despite the fact that it has two ongoing lawsuits related to environmental issues, and has faced fines in the past for skirting Chilean environmental regulations and over extracting brine. It is not clear how these legal issues were factored into the rating for this principle, considering that they received a relatively high score.
- 1.2.2.1 The full score rating seems to contradict information stated in 1.2.1.3 that there wasn't a formal engagement plan beyond the *convenios*.
- 1.2.2.2 - This received a substantially meets score, despite the fact that "*communities indicate that there is room for improvement in terms of direct engagement (rather than through the local MTP or Consejo, which many see as non-representative) and that information is filtered through the MTP and Consejo and does not reach them directly. Communities also indicate that they can give and receive feedback to and from the organization, but again through the MTP, which several communities indicated was not representative or sufficient.*" Given these deficiencies, it is unclear how the operating company merits a substantially met score on this requirement.
- 1.2.2.7 - This section states that feedback to communities goes through the MTP. However, previous sections (see above) state that some community members see the MTP as non-representative and that it is not sufficient, so it is thus unclear why the operating company merits a full score. A similar issue is seen in 1.3.3.1, with regards to the CPA mediating grievance mechanisms.

Principle 2: Planning for Positive Legacies

- As an overall question, we would like to know how the ESIA was analyzed, and whether or not the auditors completed a thorough review of input data. At other mine sites we have seen examples of ESIA's that draw incorrect conclusions based on the use of incomplete input or baseline data.
- 2.1.2.2 - Reasoning mentions that "the ongoing ESIA process *will be* uploaded," but auditors should be cautious of relying on what the operating company says it will do because this is not yet verifiable.
- 2.1.4.1 - Regarding baseline data, scientists, community stakeholders and local NGOs in the Atacama region have raised concerns that there is not adequate baseline data on the Atacama ecosystem. We are wondering if and how this was taken into account by auditors when reviewing and scoring the ESIA.
- 2.1.4.2. - It seems that the auditors verified that the additional studies exist according to Chilean legislation, but it is important to know if the auditors verified that the studies meet best practice standards.
- 2.1.7.3 - 2.1.8.1 The blue and yellow scores are based on evidence that "suggested" that the company is implementing the ESIA, this language does not make it clear whether or not the auditors verified the evidence provided, or if there are systems in place to ensure implementation.
- 2.1.9.1. - States that communities had enough time to review ESIA without clarifying how the auditors define "sufficient time." It also states that, "Each community was addressed by the company, and others were considered not relevant by the Chilean Environmental Authority." It is not clear why some communities were considered not relevant by Chilean authorities, and if the auditors reviewed and verified this decision.
- 2.2.2.1 - It would be helpful to explain what the "FPIC-compatible process" led by the operating company was.
- 2.2.2.2. Received full compliance marks for having obtained FPIC. However, notes in other parts of the section mention that information shared with the MTP does not always reach the full community, that information and project plans are not always shared prior to being implemented, and that some informational documents, such as the ESIA, are not easily accessible to communities that do not have internet access (See 2.2.2.3, 2.2.10.5, 2.2.2.3). Furthermore, as is noted in our comments on section 2.2.3.1, the IRMA auditors note that the *convenios* do not "explicitly mention FPIC or mention that the communities have the right to reject changes to the project that might have new impacts on their lands and resources." Given that 2.2.2.2 relies on the *convenios* as proof of FPIC, we would like to know how the lack of an explicit mention of FPIC and the lack of an explicit mention of their right to reject changes to the project were factored into the final FPIC score.
- 2.2.2.3 - Under the basis for rating it says that changes to the project were not always communicated prior to the initiation of activities, yet the requirement received a substantially met rating. It is unclear how much weight this lack of information was given, which is concerning because an FPIC process relies on prior and informed participation.

- 2.2.3.1. The notes in this section state that the *convenios* do not explicitly define FPIC or inform communities of their right to reject the project. Given this, we have questions as to how the auditors arrived at the full compliance score for FPIC in section 2.2.2.2.
 - It would be helpful to link or publish the third party report upon which this score is based on.
 - 2.2.3.3. Based on the notes, it is unclear how the blue score for this requirement is justified, particularly because communities have “indicated that they required additional assistance in understanding technical components of the project,” and have not yet received additional assistance.
 - This section also mentions that an organization wrote a research paper on Indigenous Peoples in the area. It would be helpful to include or link this research paper.
 - 2.2.4.3 While we understand that the *convenios* are not public, it is important to clarify how the auditors determined that the *convenios* equate an FPIC process.
 - Particularly because the notes in 2.3.1.1 state that *convenios* do not require broad public support as an explicit requirement for operation, and 2.2.3.1 mentions that they do not explicitly mention FPIC or communicate the right to reject proposals from the operating company.
 - 2.3.3.1. Received a full score for a participatory planning process organized through the MTP - how was this determined given that the audit report itself identifies that some community members do not feel represented by the MTP and do not believe that the MTP has done an adequate job of sharing information with all community members?
 - 2.3.3.2 points out that there is no evidence of vulnerable populations being included in decision-making or benefits distribution.
 - 2.3.3.3. Received a blue score, despite there being no evidence that the operating company paid for external legal counsel. How do they substantially meet this requirement, if there is no evidence that they met it?
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- **Principle 3: Social Responsibility**
 - 3.1.3.3. Received a blue score despite having “no specific prevention measures” for avoiding gender-based harassment. It also says that “A small number of (male) workers reported verbal harassment; however, the site has a confirmed and socialized policy on workplace discipline including prohibition of harassment that it enforces.” This again provides a rating based on what the operating company claims to have done.
 - There are significant gaps in the cultural heritage section, and it mentions a 2016 Archaeology Report. It would be helpful to publish or link the report so that others can reference it. Furthermore, because the operating company has not completed full studies on the cultural heritage impact, it is unclear how communities could have consented to the Tilocalar area drilling given that they did not have all of the information about potential impacts needed to make an informed decision.
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- **Principle 4 - Environmental Responsibility**
 - The IRMA standard aims to be very protective of water, which is important in a region like the Atacama Desert.

- Auditors note that the company claims that there will not be impacts on surface or groundwater so any additional modeling or monitoring aren't necessary. At the same time, community concerns about impacts on surface and groundwater are briefly mentioned. How did the audit process verify the company's claims?
- 4.1.4.1. This critical requirement received a "substantially meets" score, despite the fact that the operating company has not provided risk assessments for the domestic water treatment plant or hazardous waste storage area. These seem like serious omissions, especially for something as important as a risk assessment for hazardous waste storage. It is also a problem that communities are consulted about the project prior to having all of the information about the project's associated risks.
- 4.2.1.3. The operating company received a blue score, despite the water supply issues faced by the Peine community which the company does not appear to be addressing, as referenced in the audit report.
- 4.2.2.1. It is unclear how the company received a green score on this when it has *not* collected baseline data since the beginning of exploitation. Furthermore it references the operating companies intent to comply, which is not the same as actual compliance.
- 4.2.2.2. - In regards to potential impacts on water quantity or quality, it states that "No significant impacts were determined during the assessment process." However, it is not clear if this means during the audit or during the company's assessment. It is also not clear how communicating impacts to stakeholders equates to collaboration with these stakeholders.
- 4.2.2.3 - The company is operating and generating models based on their assumption that they may not impact water. How is an assumption that they may not cause impacts sufficient to meet this requirement?
 - Have auditors reviewed the basis for this assumption by the operating company and are the auditors in agreement with the operating company's conclusion?
- 4.3.1.2 The operating company does not have an air quality baseline, so it is unclear how they received a substantially meets score on this requirement.
- 4.6.4.2. - Stakeholders have raised concerns about impacts on flamingo populations, and it is unclear how this was addressed during the onsite assessment.

We are happy to meet with you to discuss these concerns. We request a written response to our main concerns, outlined in the "Audit Methodology" section that we can share with our frontline partners and colleagues.

Thank you.
Sincerely,

Paulina Personius
Ellen Moore
Payal Sampat

Earthworks