



Santiago March 25, 2019

Board of Directors  
BiFox Ltd.

Ref.: Status of the settlement entered with Chilean Government in the environmental damage, restoration and compensation claim against the Bahia Inglesa phosphate project.

Dear Sirs,

I was requested to issue a report on the status of the settlement agreement entered among **(i)** Compañía Minera de Fosfatos Naturales Limitada (hereinafter "BIFOX") and Sociedad Contractual Minera Bahía Inglesa (hereinafter "SCMBI" and jointly with BIFOX, the "Companies") and **(ii)** the Chilean Government represented by *Consejo de Defensa del Estado* (hereinafter "CDE"). The Companies owned several mining properties and other assets that comprised the "Bahía Inglesa" phosphate mining project (hereinafter the "Project").

As you are aware, the State of Chile filed the following complaints against the Companies (hereinafter the "Lawsuits"):

- a) File number C-5532-2004 in the 2nd Civil Court of Copiapó, for the damage to a site of paleontological relevance. In this file the Companies were ordered to pay damages in the amount of approximately USD 6,000,000, and to perform different restoration of works (the cost of which amounts to millions of dollars). There being no additional recourses against this ruling, the decision is final. Moreover, the 2nd Civil Court of Copiapó also ordered the seizure of the Companies' mining properties, a decision which was later on extended to the Project's plant and machinery.
- b) File number C-147-2014 in the 2° Civil Court of Copiapó, a claim seeking the restitution of the surface land where the Project is located. This case was ruled against the Companies and there are no pending recourses.

On December 2016, FCGPL Pty Limited –now Bifox Ltd (hereinafter "Bifox Ltd")– bought 100% of the shares of the Companies and took the control of the Project. In addition to executing such purchase, I was instructed to contact CDE – in its capacity of representative of the Chilean Government– to commence negotiations for a potential settlement of the Lawsuits and the release of the seizure ordered over the Companies' assets, as conditions to restart the operation of the Project.



During 2017 and 2018 we held several meetings and working sessions with CDE representatives. Representatives of *Consejo de Monumentos Nacionales* –the Chilean Government Agency charged with protecting and defending archeological and paleontological heritage– were also in attendance as technical advisors to CDE. The Companies, for their part, were advised by paleontologist and archaeologists.

The main purpose of these meetings was to negotiate a protocol and procedure to enable the future development of the Project, without causing further damage to the paleontological site, and to establish remediation actions to be implemented at the site. Under this settlement, the Companies were to waive the right to exploit certain areas of the Project, for the purpose of which the Companies were to conduct geological studies.

At the same time, I conducted the following activities on behalf of the Companies:

- A) Negotiations with CDE to agree a reduction in the amount the Companies owed as damages in accordance with the Court ruling; and
- B) Negotiations with CDE and *Ministerio de Bienes Nacionales* (hereinafter "BBNN"), the Chilean Government Ministry mandated with managing State property. The purposes of these negotiations was settle case No. C-147-2014, and enter into a new agreement to use the surface land above the Project, surface land that is owned by State.

In accordance with the negotiations, we presented several settlement proposals to CDE, for their internal revision and approval. In addition to their lengthy procedures, the negotiations were delayed from the lack of confirmation from Bifox Ltd. CDE ultimately rejected the Companies' proposals. Subsequently, on June 27, 2018 the Companies presented for CDE's internal discussion a new proposal that included a paleontological management plan.

After a few months from the Companies' submission, CDE requested further information and clarification. The main point to be cleared concerned who was to be the recipient of the funds the Companies were to pay as compensation for the damages. Please note that the recipient was not a matter to be decided by the Companies, as funds paid in compensation in this kind of claim ought to go directly to the Central Government – not to specific authorities. However, the District of Caldera and Regional Government engaged in strong lobby to have the committed payments allotted to them, as well as ensuring they would have a voice in how the funds were to be spent. In other words, the CDE involved the Companies in a problem that was political in nature.



In this scenario, we held meetings and conversations with the District of Caldera and *Intendencia de Atacama* (the Regional Government) to discuss and agree how these funds should be paid and allocated to them. The result of these conversations was presented to CDE.

Once this issue, and the other requests for clarification from CDE were cleared, the revised proposal was submitted to TREPAL Committee – the CDE Committee vested with authorizing this type of cases– for their approval. TREPAL approved the proposal on the meeting held during the first week of March. At the time, it was also resolved to instruct Mr. Adolfo Rivera, head of the Regional CDE Office, to prepare a draft settlement present to the Companies.

Mr. Rivera has advised us that the draft settlement is currently under technical revision from the Environmental Section at CDE, and that I should receive the draft within the next few days.

Once we agree on the final form of the agreement -which should be a streamlined process, unless the draft contains terms not previously agreed upon – the settlement agreement will be presented to the plenary session of the CDE, so they may issue a final resolution approving the agreement and authorizing its execution. Considering that the agreement was already approved by TREPAL and based on the CDE's past practice, the plenary session should approve the agreement. I expect this to happen within the next 30 days.

As a final comment, it is important to note that this type of negotiation with CDE is a very unique and rare process, as the Government tends to not settle these type of lawsuit. It is precisely because this type of decision is seldom taken, along with the Companies' delay in responding to CDE's requests that this proceeding has taken so long.

Please let me know if you need any further information or clarifications,

Best regards,

**Pablo Mir**  
**Bofill Mir & Alvarez Jana**