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## **Special Report of Investigation**

**Concerning Allegations of Illegal and/or Unregulated Sand Mining Activities in the Vicinity of the JAMALCO 'Mud Lake' in Hayes, Clarendon and Corrupt Practices in the Issuance of Mining Licences by Certain Public Officers/Officials in the Ministry of Mining & Energy**

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**Integrity Commission  
July 2021**



This Publication until tabled in Parliament shall be confidential.

Section 55 and 56 of the Integrity Commission Act states:

"(4) Anything said or information supplied or any document or thing produced by any person for the purpose or in the course of any investigation by or proceedings before the Commission under this Act, shall be absolutely privileged in the same manner as if the investigation or proceedings were proceedings in a court of law.

(5) For the purposes of the Defamation Act, any report made by the Commission under this Act and any fair and accurate comment thereon shall be deemed to be privileged.

56.—(1) Subject to section 42(3)(b), every person having an official duty under this Act, or being employed or otherwise concerned in the administration of this Act (hereinafter called a concerned person) shall regard and deal with as secret and confidential, all information, statutory declarations, government contracts, prescribed licences and all other matters relating to any matter before the Commission, except that no disclosure made by the Commission or other concerned person in the proceedings for an offence under this Act or under the Perjury Act, by virtue of section 17(2) of that Act, shall be deemed inconsistent with any duty imposed by this subsection.

(2) The obligation as to secrecy and confidentiality imposed by this section, in relation to any documents, or information obtained under this Act continues to apply to a person despite the person having ceased to have an official duty, be employed or otherwise concerned in the administration of this Act.

(3) Every concerned person who is required under subsection (1) to deal with matters specified therein as secret and confidential who at any time communicates or attempts to communicate any such information, declaration, letter and other document or thing referred to in subsection (1) disclosed to him in the execution of any of the provisions of this Act to any person—

- (a) other than a person to whom he is authorized under this Act to communicate it; or
- (b) otherwise than for the purpose of this Act,

commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

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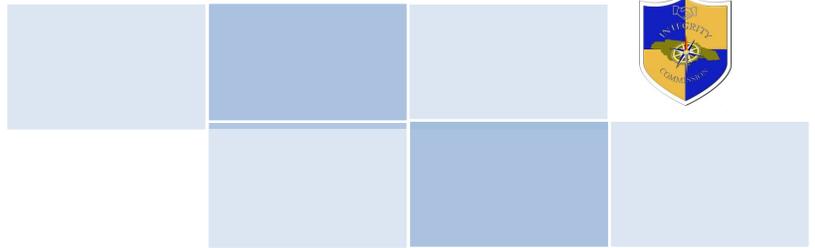


## **Summary of Investigation**

1.0 On August 28, 2015, the then Office of the Contractor General (hereinafter referred to as the then OCG), launched an investigation, acting pursuant to Sections 4, 15 (1) and 16 of the then applicable Contractor General Act. The investigation concerned allegations of illegal/unregulated sand mining activities in the vicinity of the Jamalco 'Mud Lake' in Hayes, Clarendon and corrupt practices in the issuance of quarry licences by certain public officers/officials at the then Ministry of Science, Technology, Energy, & Mining (MSTEM).

1.1 The then OCG's decision to undertake an investigation into the referenced allegations was prompted by an anonymous telephone call. In particular, the complainant alleged, *inter alia*, as follows:

- a) That there were illegal/unregulated sand mining activities in the vicinity of the Jamalco "Mud Lake' in Hayles, Clarendon; and
- b) That there were corrupt practices in the issuance of quarry licences by certain public officers/officials in the then MSTEM. Having regard to the allegations mentioned herein, the then Contractor General sought to determine, *inter alia*, whether there was illegal/unregulated



sand mining being undertaken in the vicinity of the Jamalco ‘Mud Lake and whether the process(es) which was/were undertaken by the then MSTEM and/or the Mines & Geology Division in the issuance of a Quarry Licence to Joseph and Roy Smith was/were devoid of improprieties and irregularities, and/or resulted in a breach of the Quarries Control Act and/or any other applicable law or policy.

## 1.2 Summary of Key Facts and Findings

1.3.1 The Quarries Control Act (1983) is the overarching legislation, which governs the operation and management of quarries in Jamaica.

1.3.2 The Commissioner of Mines *“is responsible for the administration and enforcement of the Mining Act and the Quarries Control Act.”*

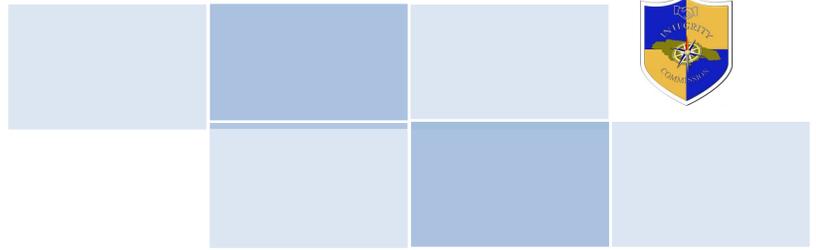
1.3.3 Section 8(1) of the Quarries Control Act (1983) states, *inter alia* that “An application for a licence to operate a quarry shall be filed with the Minister in the prescribed form and shall be accompanied by the prescribed fee and the prescribed particulars.” Also, on receipt of an application for a licence, the Minister shall consult with the relevant authorities in order to make a determination as to whether to grant or refuse the application.



1.3.4 An individual applying for a Quarry Licence from the MSTEM is required to complete a Quarry Licence Application Form, with supporting documents, which includes: - a) a non-refundable application fee of (\$25,000.00) or any such fee that may be applicable; b) proof of legal access to land for the proposed area to be quarried, in the form of - 1) Certificate of Title, 2) Stamped Sales Agreement or Instrument of Transfer, 3) Stamped Lease Agreement, 4) or Affidavit from Attorney or Justice of the Peace indicating ownership or possession of land; c) six (6) copies of a topography map at a scale of 1:12,500; d) a survey diagram at a scale of at least 1:6000 showing the exact area to be quarried; and e) two (2) character references.

1.3.5 Section 8(3) of the Quarries Control Act (1983) mandates that the Minister shall hold consultations with the relevant authorities, including; the National Environment Planning Agency, National Works Agency, Agricultural Land Management Division, the Parish Council and the Water Resources Authority etc., prior to the granting of a Quarry Licence, in order to determine whether there were any objections to the application for a Quarry Licence.

1.3.6 The Quarries Advisory Committee (QAC) is an advisory Committee appointed by the Hon. Minister under Section 6 of the Quarries Control Act. The QAC is responsible for advising the Minister on: a) matters of



general policy with respect to quarries; b) applications for quarry licences; and c) any other question referred to it by the Minister.

- 1.3.7 On June 2, 2014, Mr. Khalil Latchman submitted an application to the Ministry of Science, Technology, Energy & Mining (MSTEM), for a Quarry Licence, on the behalf of Messrs. Joseph and Roy Smith, of New Bowens District, Clarendon.
- 1.3.8 The proposed location for the mining activities as indicated on the referenced June 2, 2014, Quarry Licence Application Form was “along the Rio Minho Dry River”, in the parish of Clarendon.
- 1.3.9 A Site Inspection (SI) of the referenced proposed location was undertaken by the Mines and Geology Division, in June 2014, and a Quarry Inspection Report was submitted to the Technical Committee of the Mines and Geology Division (MGD) on July 1, 2014.
- 1.3.10 On July 2, 2014, Mr. Marlon Smith, Inspector of MGD, wrote to Messrs. Joseph and Roy Smith and advised, *inter alia*, that their application was recommended by the Quarry Advisory Committee, for one (1) year and that they should submit a Restoration Bond Deposit and a Quarry Plan.



- 1.3.11 Another letter dated July 2, 2014, was issued by Mr. Marlon Smith, Inspector of MGD, to Messrs. Joseph and Roy Smith, requesting that a Registered Lease Agreement with the Sugar Company of Jamaica and a diagram showing the specific area proposed for quarrying purposes be submitted.
- 1.3.12 The Quarry Licence application submitted to MSTEM, by Messrs. Joseph and Roy Smith, was not accompanied by a Quarry Plan, which was one (1) of the requirements for the submission of a Quarry Licence application.
- 1.3.13 On August 21, 2014, a Quarry Licence (QL No. 2084) was issued by MSTEM, to Joseph and Roy Smith, of New Bowens District, May Pen, Clarendon.
- 1.3.14 The referenced Quarry Licence (QL No. 2084) outlines seventeen (17) Special Conditions, which provide certain stipulations in relation to the operation and management of the quarry site. In particular, Condition 2 stipulates that ***"The extraction of quarry materials shall be confined to the hours of 7a.m – 6p.m."*** With respect to Condition 13 ***"Quarried out areas shall be progressively rehabilitated to the satisfaction of the Commissioner of Mines."*** Also, Condition 14 states that ***"The Restoration Bond posted shall be kept current for the duration of this licence."***



1.3.15 With respect to the requirement to provide a copy of a Registered Lease Agreement, a copy of a letter dated June 9, 2008, from the Sugar Company of Jamaica, was submitted to the then OCG, on September 11, 2015, by Mr. Clinton Thompson, then Commissioner of Mines. The said letter indicated that Messrs. Joseph and Roy Smith were the occupiers of a parcel of land at Dry River, Sections 7, 7a & 8, Clarendon.

1.3.16 In early March 2015, The MGD became aware of the fact that quarrying of sand was being conducted in the vicinity of the Jamalco's Mud Lake based on a site inspection conducted by its Quarry Inspectors.

1.3.17 A Quarry Inspection Report generated by the MGD after the site inspection raised concerns regarding the failure on the part of the Licensees to adequately rehabilitate the quarry site, for the replanting of sugarcane. The Licensees were advised to cease all operations in the vicinity of Jamalco's Mud Lake and to provide information to the MGD to clarify and justify legitimate land ownership. To this effect, all quarrying activities were suspended.

1.3.18 On April 15, 2015, Mr. Calbert Hanson, Mining Operations Manager, Jamalco, wrote to Mr. Clinton Thompson, then Commissioner of Mines, and advised of illegal mining on Jamalco's property, adjacent to the entity's residue storage area in Halse Hall, Clarendon.



- 1.3.19 On April 28, 2015, Mr. Roy Nicholson, Director of Evaluation & Revenue, MSTEM, wrote to Messrs. Joseph and Roy Smith, advising that “*there [were] discrepancies as to their legitimate access to the property [on which they were] conducting quarrying activities for the past four (4) months... [and that] the operation [would] remain closed ... until further rectification with Jamalco.*”
- 1.3.20 The suspension of the Quarrying Licence that was issued to Joseph & Roy Smith was objected to by Mr. George E. Clue, Attorney-at-Law on behalf of the said Joseph and Roy Smith.
- 1.3.21 Mr. Presley Clarke, Lands Superintendent, Jamalco, wrote to Mr. Clinton Thompson, then Commissioner of Mines, and advised that the parcel of “*land comprised in Certificate of Title registered at Volume 967 Folio 49 is owned by Alcoa Minerals of Jamaica LLC.*” Mr. John Gayle, Chief Executive Officer, SCJ Holdings Limited, also concurred with Jamalco, that the property (Volume 967 Folio 49) was owned by Alcoa Minerals.
- 1.3.22 Mr. Joseph Smith advised the then Contractor General, in a hearing held on January 26, 2017, that the property on which the quarrying activities were being undertaken, was leased from the National Land Agency (NLA) in 1975.



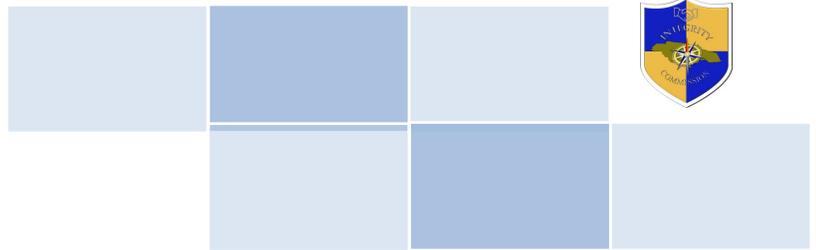
1.3.23 In a letter dated June 17, 2015, addressed to Mr. Clinton Thompson, the SCJ Holdings Limited advised the entity *“did not grant permission for sand mining on the lands, given that those lands are leased for the cultivation of sugar cane.”*

1.3.24 The Certificate of Title for land registered at Volume 967, Folio 49, refers to those parcels of land part of Caswell Hill and Bog Estate in the parish of Clarendon, the land is situated in the vicinity of the Caswell Hill and along the Rio Minho.

1.3.25 The West Indies Sugar Company Limited was the original registered proprietor on the Certificate of Title and a transfer of the land registered at Volume 967, Folio 49 was registered on January 29, 2010 to Alcoa Minerals of Jamaica.

1.3.26 A portion of the land was leased in April 6, 1994 to the Sugar Company of Jamaica by the West Indies Sugar Company of Jamaica Limited for a term of 49 years.

1.3.27 Messrs. Joseph and Roy Smith were certified by the SCJ as the occupiers of the said by virtue of a lease granted to them in 1975 under the Land Lease project.



1.3.28 Mr. Evroy Chin and other persons found on the site, in breach of the Quarries Control Act were arrested [sic] prosecuted.

1.3.29 A Formal Order, concerning the referenced matter was made in the Resident Magistrate Court for the Parish of Clarendon, on December 14, 2015. The Order permitted the defendants Evroy Chin and Khalil Latchman to remove material that had already been mined from the Quarry site situated in Casswell Hall in the parish of Clarendon.



## Chapter 2 – Background

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2.1 This chapter outlines the background information concerning the investigation, the jurisdiction of the then Office of the Contractor General (OCG) to initiate the investigation and thereafter the continuation of same by the Director of Investigation (DI).

### Initiation of Investigation

2.1.1 On August 28, 2015, the then OCG, acting pursuant to Sections 4, 15 (1) and 16 of the then applicable Contractor General Act, initiated an investigation into allegations of illegal/unregulated sand mining activities in the vicinity of the Jamalco ‘Mud Lake’ in Hayes, Clarendon and corrupt practices in the issuance of quarry licences by certain public officers/officials in the then MSTEM.

2.1.2 As mentioned herein, the impetus for the decision to investigate the referenced matter emanated from the receipt of an anonymous telephone call. The complainant made allegations of illegal sand mining at the referenced location and corrupt practices in the issuance of mining licences, by the MSTEM, and particularly, the Mines & Geology Division.



2.1.3 The aforementioned allegations raised several concerns for the then OCG, with respect to its mandate to ensure probity in the issuance of government contracts, which include, *inter alia*, any licence, permit or concession.

#### Jurisdiction

2.1.4 The then OCG relied on Sections 2, 4 and 15 of the then applicable Contractor-General Act, which enabled the Office to investigate the referenced matter.<sup>1</sup>

2.1.5 Further, and pursuant to Sections 33(1)(a), 52(1)(a) and 63 of the Integrity Commission Act, the Director of Investigation, continued the investigation into the said matter.<sup>2</sup>

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<sup>1</sup> Sections 2, 4 and 15 of the Contractor-General Act. Sections 33(1)(a), 52(1)(a) and 63 of the Integrity Commission Act

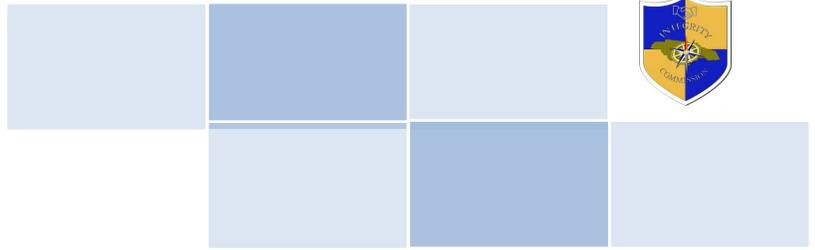
<sup>2</sup> Sections 33(1)(a), 52(1)(a) and 63 of the Integrity Commission Act



## The Investigation

2.1.6 During the course of the investigation, the following investigative actions were executed:

- 1) The issuance of requisitions to a) Mr. Clinton Thompson, then Commissioner of Mines, MSTEM; b) Mr. John Gayle, Chief Executive Officer, Sugar Company of Jamaica Holdings Limited; and (c) Mr. Antonio Melo, Chief Executive Officer, Clarendon Alumina Works.
- 2) The conduct of Judicial Hearings, pursuant to Section 18 of the Contractor General Act on January 26, 2017, at which time the following persons appeared before the then Contractor General a) Mr. Joseph Smith, Licensee and b) Mr. Khalil Latchman, Agent of Mr. Joseph Smith.
- 3) The Review of certain applicable Sections of the Quarries Control Act (1983) and established internal policies that outlined the processes involved in the processing of Quarry Licence applications and the issuance of Quarry Licences was undertaken.



2.1.7 Based on the foregoing investigative actions, a detailed review and cross-referencing of the statements and supporting documentation were conducted in order to inform the DI's conclusions.

#### Individuals Pertinent to the Investigation

2.1.8 The following persons were considered pertinent to the investigation:

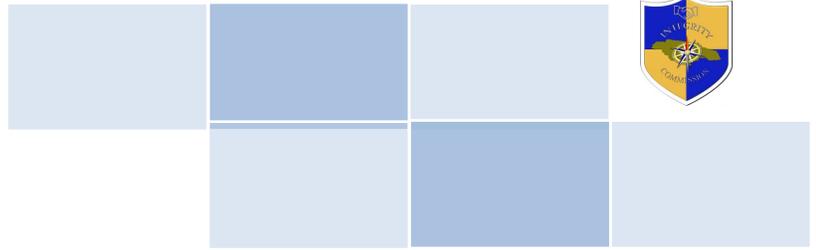
- a) Mr. Clinton Thompson, then Commissioner of Mines, MSTEM;
- b) Mr. John Gayle, Chief Executive Officer, Sugar Company of Jamaica Holdings Limited;
- c) Mr. Antonio Melo, Chief Executive Officer, Clarendon Alumina Works;
- d) Mr. Joseph Smith, Licensee;
- e) Mr. Evroy Chin, Contractor; and
- f) Mr. Khalil Latchman, Agent of Mr. Joseph Smith.



## Chapter 3 – Terms of Reference

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- 3.1 This chapter sets out the scope of the investigation and the issues that were explored.
- 3.2 The primary investigative objectives of this Investigation were to ascertain the following:
- a) The veracity of the allegations of illegal/unregulated sand mining in the vicinity of the Jamalco 'Mud Lake' and/or on properties belonging to Jamalco;
  - b) The individuals or entities, if any, who/which were involved in the illegal/unregulated sand mining in the vicinity of the Jamalco 'Mud Lake' in Hayes, Clarendon;
  - c) The process(es) which was/were undertaken by the MSTEM and/or the Mines & Geology Division in the issuance of a Quarry Licence to Joseph and Roy Smith;
  - d) Whether there was/were any breach(es) of the Quarries Control Act (1983) or any other applicable legislation or Government of Jamaica policy, on the part of the MSTEM and/or the Mines &



Geology Division, in the issuance of a Quarry Licence to Joseph and Roy Smith;

- e) Whether there was/were any breach(es) of the Quarries Control Act (1983) or any other applicable legislation or Government of Jamaica policy, on the part of Joseph and Roy Smith or any other person(s) acting on their behalf;
- f) Whether the process(es) which resulted in the issuance of the Quarry Licence to Joseph and Roy Smith, was/were impartial and without irregularities;
- g) The role(s)/function(s) of the Officer(s)/Official(s) at the MSTEM and/or the Mines & Geology Division, who were instrumental in the issuance of the Quarry Licence to Joseph & Roy Smith;
- h) Whether Messrs. Joseph and Roy Smith were in breach of the Special Conditions of the Quarry Licence that was issued by the MSTEM and/or the Mines & Geology Division; and
- i) Whether recommendations ought to be made in respect of any breaches and anti-corruption initiatives.



## Chapter 4 – Law, Evidence and Discussion of Findings

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4.0 This chapter sets out the relevant legislation and a discussion of the findings of the investigation.

The Process for Obtaining a Quarry Licence & the Roles of the Minister, Ministry of Science, Technology, Energy, & Mining and the Commissioner of Mines, Mines and Geology Division

4.1 Based upon the captioned, Mr. Clinton Thompson, then Commissioner of Mines & Geology, MSTEM, provided the then OCG with a copy of a document under the captioned subject "**A GUIDE TO OBTAINING A QUARRY LICENCE**". The referenced document which outlined the process for obtaining a Quarry Licence is detailed, *inter alia*, as follows:

***“Under Section 5(1) of the Quarries Control Act, 1983, any person(s)/company wishing to operate a quarry must first apply to the Honourable Minister through the Commissioner of Mines.***

### **PROCESS**

1) *This application is made on a prescribed form along with supporting documents. These include: -*



- a) *Non-refundable application fee of twenty five thousand dollars (\$25,000.00) or whatever fee is in force from time to time; [and] b) Proof of legal access to land for the proposed area to be quarried. This can be in the form of: 1) Certificate of Title; 2) Stamped Sales Agreement or Instrument of Transfer; 3) **Stamped Lease Agreement**; 4) Affidavit from Attorney or Justice of the Peace indicating ownership or possession of land*
- c) *Six (6) copies of a topography map at a scale of 1:12,500.*
- d) *A survey diagram at a scale of at least 1:6000 showing the exact area to be quarried.*
- e) *Two (2) character references.*
- In the case of a company, the application must also be supported by: - a) Certificate of Incorporation; [and] b) Names of Directors*
- 2) *A copy of the application is forwarded to a number of government and government related agencies requesting inspection of the proposed quarry site and their recommendations. These include: - a) The National Works Agency (NWA); b) National Environment Protection Agency (NEPA); c) Rural Physical Planning Unit (RPPU); d) The*



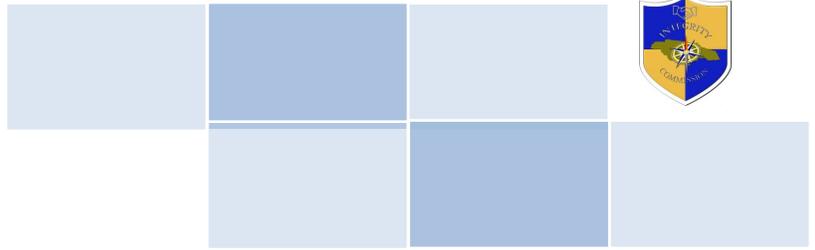
*Environment Health Unit, Ministry of Health (EHU); e) The Parish Council (of the parish) where the proposed site is located; [and] Any other relevant organization (deemed necessary).*

3) *The Quarries Advisory Committee (QAC) - The QAC is an advisory committee appointed by the Honourable Minister under Section 6 of the Quarries Control Act, and is comprised of private and public sector members. The duty of the QAC is to advise the Minister – a) On matters of general policy with respect to quarries; b) With respect to applications for licences; or c) Upon any other question, referred to it by the Minister.*

*The final Inspection report is deliberated upon by the QAC. The QAC can recommend that: - 1) An application be deferred pending the need for additional information; 2) A licence be granted with conditions; [and] 3) A licence be refused.*

**a) Deferral**

*The QAC can recommend to the Commissioner of Mines that an application be differed pending the obtaining of additional information, clarification of issues and concerns or the*



*inspection or re-inspection by any relevant or competent body.”<sup>3</sup>*

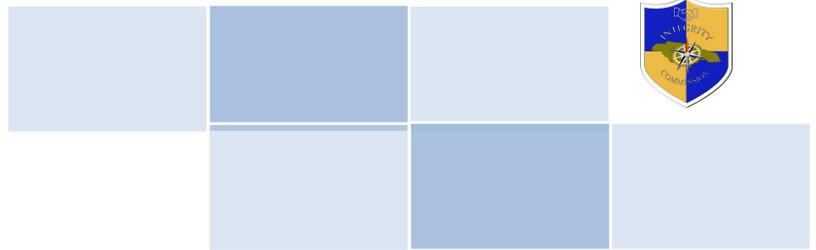
4.1.1 Further to the process outlined above, and as it relates to the role of the Portfolio Minister in relation to the issuance of a Quarry Licence, Section 8 of the Quarries Control Act states, *inter alia*, as follows:

“...

- 3) *On receipt of an application for a licence the Minister shall consult with the relevant authorities and shall, subject to the provisions of Section 9, either grant or refuse the application and, in the event of refusal, shall notify the applicant in writing of the grounds of refusal.*
- 4) *A licence granted under this section may contain such terms and conditions as the Minister considers advisable.*
- 5) *A licence granted under this section – a) shall, unless previously revoked, remain in force for such period as may be determined by the Minister acting on the advice of the Commissioner; or b) may, if the Minister thinks fit, upon the expiry of the period determined pursuant to paragraph (a), be*

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<sup>3</sup> Mines and Geology Division, A Guide to Obtaining a Quarry Licence.



*renewed upon payment of the prescribed fee, for a period so determined.”<sup>4</sup>*

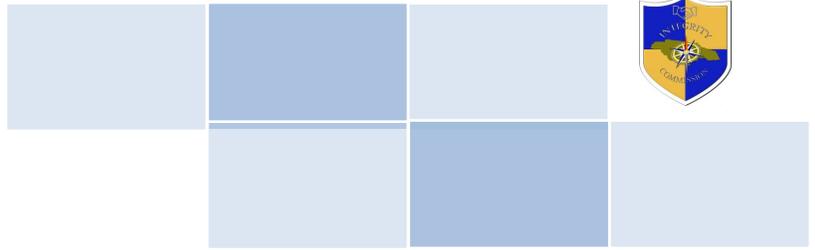
4.1.2 In relation to the Minister’s duty to consult, Section 8(6) of the Quarries Control Act (1983) defines ‘relevant authority’ as follows: a) the local authority of the parish in which the quarry is to be operated; b) the Chief Technical Director; c) the Natural Resources Conservation Authority; d) The Permanent Secretary, Ministry of Agriculture; e) the Water Resources Authority; and f) any statutory body or agency appearing to the Minister to have an interest in or be likely to be affected by the issuing of a licence.

4.1.3 As it relates to the role of the Commissioner of Mines in the process of obtaining a Quarry Licence, Mr. Clinton Thompson, then Commissioner of Mines, provided, *inter alia*, the following response on September 11, 2015:

*“The Commissioner of Mines is responsible for the administration and enforcement of the provisions of the Mining Act and the Quarries Control Act (1A).*

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<sup>4</sup> Section 8 of the Quarries Control Act, submitted to the then Office of the Contractor General on September 11, 2015, by Mr. Clinton Thompson, then Commissioner of Mines & Geology, Ministry of Science, Technology, Energy & Mining.



*In accordance with Section 5 of the Mining Act, the Commissioner of Mines is required to exercise general supervision over all prospecting, mining and quarrying operations in the island.”<sup>5</sup>*

Details Surrounding the Quarry Licence Application of Messrs. Roy Smith and Joseph Smith

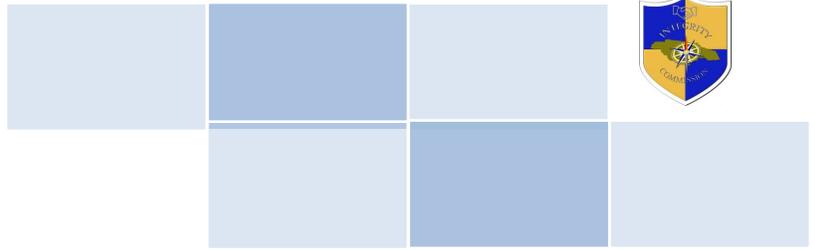
4.2 An application for a Quarry Licence was made to the then MSTEM, on June 2, 2014, by Mr. Khalil Latchman, on behalf of Messrs. Joseph and Roy Smith, of New Bowens District, Clarendon.

4.2.1 As indicated on the Application Form, the quarry activities were designated to be executed “*along the Rio Minho Dry River*” in the parish of Clarendon.

4.2.2 Further to the application, Mr. Clinton Thompson, then Commissioner of Mines, provided the then OCG, with a copy of a Quarry Inspection Report, which detailed certain observations that were made based on a site inspection undertaken in June 2014, at the proposed location. The said Report was submitted to the Mines and Geology Division Technical Committee, on July 1, 2014, and detailed, *inter alia*, as follows:

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<sup>5</sup> Requisition response dated September 11, 2015, from Mr. Clinton Thompson, then Commissioner of Mines, to the OCG. response #1.



*“The applicants have sought a Quarry Licence to dispose of retired on-land sand on lands leased under the Land Lease Project of 1975. The proponents are sugar cane farmers who are seeking to restore lands that have been illicitly disturbed making the lands unsuitable for crop cultivation. Material extracted from the proposed site will be disposed of locally onto the construction market. Operations at the site will correlate [with] restorative and rehabilitation works so as to prepare the lands for sugar cane planting. The extraction of quarry material will be done from an on-land site along the eastern bank of the Rio Minho Delta.”<sup>6</sup>*

4.2.3 With regard to the operational details, the Report further stated, *inter alia*, as follows:

*“The applicant’s operation entails the stripping of the topsoil followed by the excavation of deposits within the safety limits of the water table. The operator proposes to then backfill these burrows with already stockpiled top soil as well as any generated during the*

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<sup>6</sup> Quarry Inspection Report, dated July 1, 2014, labelled (3b), submitted to the then OCG, on September 11, 2015, by Mr. Clinton Thompson, then Commissioner of Mines & Geology, Ministry of Science, Technology, Energy & Mining.



operation. The applicant will also establish a buffer of lateral limit between the eastern bank and the western limits of extraction”<sup>7</sup>

4.2.4 Further to the application, Section 8(3) of the Quarries Control Act (1983), mandates that consultations should be held with other relevant government agencies prior to the grant of a Quarry Licence in order to ascertain their recommendations. In this regard, and with respect to the consultations that were made by the Mines & Geology Division (MGD), a Quarry Inspection Report dated July 1, 2014, outlined, *inter alia*, the following:

**Table 1 “Recommendations of Relevant Government Agencies:**

<b>Agency</b>	<b>Response</b>	<b>Notable Comment</b>
National Environment Planning Agency	<b>No Response</b>	
National Works Agency	<b>No Objection</b>	
Ministry of Health	<b>No Response</b>	
Agricultural Land Management Division	<b>No Objection</b>	
Parish Council	<b>No Response</b>	
Water Resources Authority	<b>Objection</b>	Wider area of proposed site has several irrigation wells (some are being phased out) Quarrying will make lands unsuitable for sugar cane cultivation.
Other		

<sup>7</sup> Ibid.



4.2.5 Based upon the responses provided and notwithstanding the objection of the Water Resources Authority, the MGD's Technical Committee recommended that the application be *"favourably considered for approval for a period of one (1) year pending favourable responses from the CPC [Clarendon Parish Council] and NEPA."*<sup>8</sup>

4.2.6 Acting upon the recommendation of the MGD's Technical Committee, Mr. Marlon Simms, Inspector of Mines, MGD, wrote to Messrs. Joseph and Roy Smith, on July 2, 2014, and indicated that the application was recommended for one (1) year. The said correspondence also indicated that the applicants were required to submit a Restoration Bond Deposit in the amount of \$311,657.40, and three (3) copies of a Quarry Plan.<sup>9</sup>

4.2.7 The DI also perused another letter dated July 2, 2014, from Mr. Marlon Simms, addressed to Messrs. Joseph and Roy Smith, requesting the submission of documents to continue the processing of the application for a Quarry Licence. The documents requested by Mr. Simms, were a Registered Lease Agreement with the Sugar Company of Jamaica (SCJ)

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<sup>8</sup> Quarry Inspection Report, dated July 1, 2014, labelled (3b), submitted to the then OCG, on September 11, 2015, by Mr. Clinton Thompson, then Commissioner of Mines & Geology, Ministry of Science, Technology, Energy & Mining.

<sup>9</sup> Letter dated July 2, 2014, from Mr. Marlon Simms, Inspector of Mines, MGD, addressed to Messrs. Joseph & Roy Smith, under the captioned subject **"Restoration Bond Payment for QL 2084 site located at Caswell Hall – Dry River"**



and a diagram showing the specific area (Parcel/Survey Diagram by a Commissioned Land Surveyor) proposed for quarrying purposes.<sup>10</sup>

4.2.8 Based upon the DI's perusal and review of the Application Form, the applicant did not submit a quarry plan, as required by the Mines and Geology Division.

4.2.9 Having regard to the leasing of the property, by the applicants, from the SCJ, the DI is in possession of a letter dated June 9, 2008, which states, *inter alia*, as follows:

*"This is to certify that Joseph and Roy Smith are the occupiers on the above-mentioned land which was leased to them in 1975 under the Land Lease project and on which they are currently in occupation."*<sup>11</sup>

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<sup>10</sup> Letter dated July 2, 2014, from Mr. Marlon Simms, Inspector of Mines, MGD, addressed to Messrs. Joseph & Roy Smith, under the captioned subject "**Submission of documents in consideration of a Quarry Licence (OL 2084) for a Proposed Site located at Caswell Hall – Dry River, Clarendon**"

<sup>11</sup> Copy of Letter dated June 9, 2008, from Mr. Lascelles Richardson, Lands Officer, National Lands Agency, addressed to, the Manager, Sugar Company of Jamaica (Monymusk), labeled (7C) submitted to the then OCG, by Mr. Clinton Thompson, then Commissioner of Mines, in his response dated September 11, 2015. The referenced letter was under the caption "*Land part Dry River Sections 7, 7 a, &8 – Clarendon - Joseph and Roy Smith.*"



Details of the Quarry Licence (QL No. 2084) Issued to Joseph and Roy Smith on August 21, 2014

4.3 The referenced Quarry Licence, which was issued to Messrs. Joseph and Roy Smith indicated, *inter alia*, as follows:

**“QUARRY LICENCE QL No. 2084** -THIS LICENCE is granted to **Joseph Smith and Roy Smith** of New Bowens District, May Pen P.O., Clarendon for the purpose of quarrying **sand** over lands situated along an old channel of the Rio Minho at Caswell Hall in the parish of Clarendon, as these lands are described in the schedule attached hereto, for a period of **One (1) year (six (6) months review)** from the date hereof, subject to the provisions of the Quarries Control Act, 1983, and of the Regulations made thereunder, which are now in force or which may come into force during the continuation of this LICENCE and subject to the ... special operating conditions.”<sup>12</sup>

4.3.1 In addition, the Licence also outlines seventeen (17) Special Conditions, which provide certain stipulations in relation to the operation and management of the quarry site. In particular, Condition 2 stipulates that **“The extraction of quarry materials shall be confined to the hours of 7a.m –**

<sup>12</sup> A copy of the referenced licence was submitted to the then OCG, by Mr. Clinton Thompson, (Labelled 7B) QUARRY LICENCE QL No. 2084 – Issued to Joseph Smith and Roy Smith on August 21, 2014.



**6p.m.” With respect to Condition 13 “**Quarried out areas shall be progressively rehabilitated to the satisfaction of the Commissioner of Mines.**” Also, Condition 14 states that “**The Restoration Bond posted shall be kept current for the duration of this licence.** Condition 15 of the Quarry Licence (QL No. 2084) further states that “**The validity of this licence shall be contingent on quarry material being available within the designated area during the period of the licence.**”<sup>13</sup>**

#### Concerns Regarding Operations at the Quarry Site Operated by the Messrs. Joseph and Roy Smith

4.4 By way of a requisition directed to Mr. Clinton Thompson, then Commissioner of Mines, MGD, the then OCG sought to determine the veracity of the allegation that illegal/unregulated sand mining activities were being undertaken at a quarrying site operated by Messrs. Joseph and Roy Smith.

4.4.1 Mr. Clinton Thompson, in his September 11, 2015, response to the then OCG, provided, *inter alia*, the following statements:

*“The Quarry licence QL 2084 that was issued to Joseph Smith and Roy Smith was to conduct quarrying of sand on lands which comprised lots 7, 7a and 8 at Caswell Hall, Clarendon, which would*

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<sup>13</sup> Copy of Quarry Licence QL No. 2084 – Issued to Joseph & Roy Smith, by the then MSTEM.



be away from Jamalco Residual Storage Areas (RSAs). Quarrying operations commenced in September 2014. The Division became aware of the fact that quarrying of sand was being conducted in the vicinity of the Jamalco's Mud Lake based on a site inspection conducted by our Quarry Inspectors in early March 2015.

**Our Inspectors observed that sand was being extracted close to a drain which ran east to west which was located to the south of Jamalco's Residual Storage Area – RSA 4.**

**The operator was instructed to immediately commence backfilling/rehabilitation of that area in order to avoid any possible erosion which could affect the integrity of the drainage system. A follow-up inspection was conducted on March 25, 2015 by our office to ensure that the MGD's instructions were carried out. Our Inspectors reported that the rehabilitation was satisfactorily completed, and the operation was relocated away from this area...**

In support of the application for the quarry licence, the applicants submitted a letter from the National Land Agency ..., which indicated that Joseph and Roy Smith were occupiers of the lands which were part of Sections 7, 7a, and 8 at Dry River, Clarendon.



...

*The Mines and Geology Division (MGD) received a letter from Jamalco dated April 15, 2015, which stated that it was reported that illegal sand mining was being conducted on property owned by Jamalco which was adjunct to their residue storage area in Halse Hall, Clarendon. The company provided a map of the area which indicated the Volume and Folio number (Vol/Fol. 967/49), which demarcated the lands owned by the company and the area where the alleged illicit sand mining was being conducted.*"<sup>14</sup>

4.4.2 Mr. Antonio Melo, Chief Executive Officer, Jamalco, furnished the then OCG with a copy of the Duplicate Certificate of Title, indicating the Volume and Folio number as, Vol/Fol. 967/49, in his July 21, 2016 requisition response.

4.4.3 Mr. John Gayle, Chief Executive Officer, SCJ Holdings Limited, also concurred with Jamalco, that the "...property [Volume 967 Folio 49] belongs to Alcoa Minerals, which was purchased from West Indies Sugar

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<sup>14</sup> Requisition response dated September 11, 2015, from Mr. Clinton Thompson, then Commissioner of Mines, to the OCG, response #7.



*Company Limited on 29<sup>th</sup> September, 2010.*<sup>15</sup>Of note, Alcoa is the managing partner of Jamalco.<sup>16</sup>

4.4.4 A review of the Certificate of Title, retrieved from the National Land Agency, indicated that the land registered at Volume 967 and Folio 49, in the Register Book of Titles, refers to those parcels of land at Caswell Hill and Bog Estate, in the parish of Clarendon. The plan included on the Registered Title also indicates that the parcel of land is situated in the vicinity of the Caswell Hill and along the Rio Minho. Further, it was noted that the original registered proprietor was the West Indies Sugar Company Limited and that a transfer was registered on January 29, 2010 to Alcoa Minerals of Jamaica.

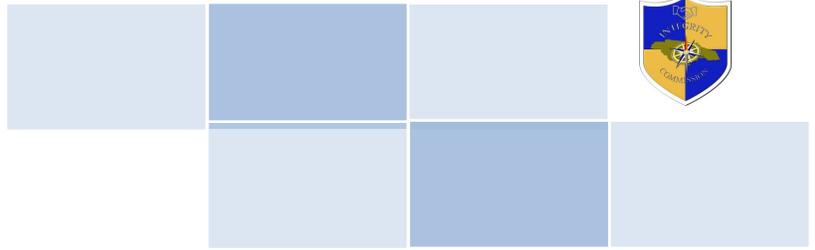
4.4.5 It was observed that a lease was also registered on the Title on April 5, 1994 from the West Indies Sugar Company Limited to the Sugar Company of Jamaica for a portion of the land for a term of 49 years.

4.4.6 Importantly, and as it relates to the lease of the property, by the applicants, from the SCJ, it is necessary to reiterate that based upon the content of a letter dated June 9, 2008, *Joseph and Roy Smith were certified by the SCJ as being "...the occupiers on the above-mentioned*

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<sup>15</sup> Requisition response dated October 18, 2016, from Mr. John Gayle, Chief Executive Officer, SCJ Holdings Limited, response #2.

<sup>16</sup> <http://www.jamalco.com/about-us.html>



*land which was leased to them in 1975 under the Land Lease project and on which they are currently in occupation.”<sup>17</sup>*

The Factors which Led to the Suspension of the Quarry Licence (QL 2084) that was Issued to Messrs. Joseph and Roy Smith

4.5 In relation to the factors which led to the suspension of the referenced Licence, Mr. Clinton Thompson, by way of response dated September 11, 2015, provided the then OCG, *inter alia*, with the following information:

*“They further [Messrs. Joseph Smith and Roy Smith] indicated that they were applying for the Quarry Licence to remove the sand from the land and would then effect rehabilitation works in preparation for the replanting of sugar cane. They contracted the services of a Mr. Paul Chin, who owns equipment and had been previously involved in sand quarrying activities in Clarendon, including areas in close proximity to this site. Quarrying activities commenced at the aforementioned location the early part of September 2014.*

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<sup>17</sup> Copy of Letter dated June 9, 2008, from Mr. Lascelles Richardson, Lands Officer, National Lands Agency, addressed to, the Manager, Sugar Company of Jamaica (Monymusk), labeled (7C) submitted to the then OCG, by Mr. Clinton Thompson, then Commissioner of Mines, in his response dated September 11, 2015. The referenced letter was under the caption “*Land part Dry River Sections 7, 7 a, &8 – Clarendon - Joseph and Roy Smith.*”



**Our monitoring of the area indicated that the rehabilitation of the land was not keeping a pace with the extraction activities. The operator was therefore instructed to backfill the areas from which sand was previously extracted and to ensure that progressive restoration was carried out on a consistent basis (backfilling of areas quarried out before moving on to new areas).** This is how land based quarrying of sand should be conducted and what was verbally communicated and also included as a Special Condition in the licence granted. (DI Emphasis)

In March 2015, the Division noted that Quarrying activities had extended north towards a drain that was located adjacent to Jamalco's RSA 4. The operator was instructed to immediately commence backfilling of this area, and to cease any quarrying activities at this location. A follow-up inspection was conducted and our Inspection indicated that the necessary rehabilitation works were done and the operation was being conducted away from RSA 4.

**The first notification regarding encroachment of the quarrying operation was in the letter dated April 15, 2015 from Jamalco. That letter stated that "illegal sand mining" was being carried out on property owned by Jamalco adjacent to their RSA in Halse Hall,**



**Clarendon. The company also provided a map which outlined the area being quarried in relation to their property.**<sup>18</sup>

4.5.1 In response to the April 15, 2015 letter, which was directed to the MGD, by way of letter dated June 17, 2015, from Jamalco, advising of “*Illegal sand mining*” on properties belonging to the said entity, Mr. Thompson further advised of the following:

**“...our Inspectors visited the site on April 21, 2015 and advised the operator and the licensees that based on the information provided by Jamalco, they were to immediately cease all quarrying activities at that location unless they provide a survey diagram or the relevant document(s) that would outline the precise boundaries of the land(s) over which they indicated that they had legal access...**

(DI Emphasis)

*Officers of the MGD and representatives of Jamalco visited the location on April 24, 2015. Jamalco’s representatives indicated that they would produce a map showing the lands disturbed by sand*

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<sup>18</sup> Requisition response of Mr. Clinton Thompson, then Commissioner of Mines, Ministry of Energy and Mining, dated September 11, 2015, response #8.



*quarrying in relation to their property. This document was supplied to the MGD by letter dated August 12, 2015.”<sup>19</sup>*

4.5.2 The DI also observed that SCJ Holdings Limited had written to the MGD and advised that the said entity *“did not grant permission for sand mining on the lands, given that those lands [were] leased for the cultivation of sugar cane.”<sup>20</sup>*

4.5.3 A Quarry Field Inspection Report dated April 21, 2015, compiled by ‘R. Nicholson and M. Simms’ also indicated, *inter alia*, that instructions were issued to the licensees for them to *“Cease all operation & provide info to MGD to clarify & justify legitimate land ownership. No extraction, disposal on any other operational works without authorization of the MGD”<sup>21</sup>*

4.5.4 Also, Mr. Roy Nicholson, Director, Evaluation & Revenue, MSTEM, wrote to Messrs. Joseph and Roy Smith, on April 28, 2015, and stated, *inter alia*, that:

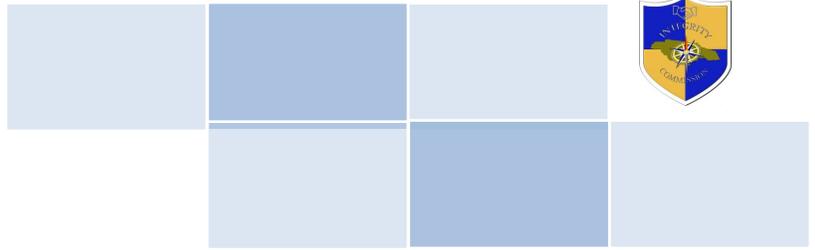
*“Further to the decision to suspend your quarrying activities at Caswell Hall, Clarendon on April 21, 2015, I am hastened to*

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<sup>19</sup> Requisition response of Mr. Clinton Thompson, then Commissioner of Mines, Ministry of Energy and Mining, dated September 11, 2015, response #8.

<sup>20</sup> Letter dated June 17, 2015, from John. Gayle, Chief Executive Director, SCJ Holdings Limited.

<sup>21</sup> Quarry Field Inspection Report dated April 21, 2015, compiled by ‘R. Nicholson and M. Simms’



*bring to your attention to Special Condition No. 2 of the Quarry Licence. As you are aware, there are discrepancies as to your legitimate access to the property you have been conducting quarrying activities on over the past four (4) months.*

*The Mines & Geology Division has been requesting the official survey document of a registered lease for the lands leased to you, which you occupied. To date you have provided neither, hence the decision to suspend your operations.*

*As you are aware Jamalco has produced a map with volume and folio numbers, showing the company being the owner of a large quantity of lands encompassing the area you have claimed to have legal access to. You were further instructed verbally on April 21, 2015, to provide the MGD with the relevant documents requested so that the matter of ownership and legal access can be ascertained. Until the requested documents are forwarded to the MGD for further ratification with Jamalco the operation will remain closed. ”<sup>22</sup>*

4.5.5 Notwithstanding the MGD's directive for the licensees to cease all quarrying activities at the location, Mr. Thompson advised that reports

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<sup>22</sup> Letter dated April 28, 2015, addressed to Messrs. Joseph and Roy Smith, from Mr. Roy Nicholson, Director, Evaluation & Revenue, Ministry of Science, Technology, Energy & Mining.



were received from the police that Mr. Paul Chin<sup>23</sup> and other persons were undertaking quarrying activities at odd hours, including weekends. However, Mr. Chin advised the police that the Quarry Licence was still valid and that the MGD had not instructed them to cease quarrying activities.<sup>24</sup>

4.5.6 Mr. Thompson indicated that he reminded the police "*...that no quarrying activity should be conducted and any such activity would be a breach of one of the special conditions of the licence.*"

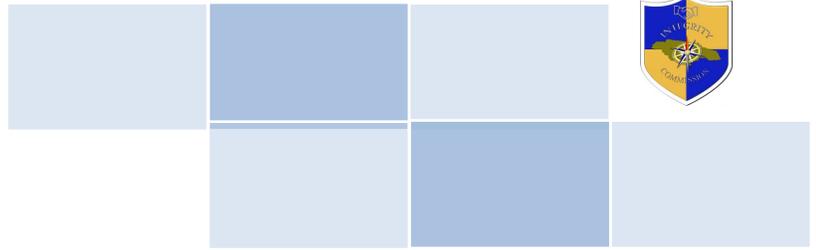
4.5.7 Acting on Mr. Thompson's advice, the police arrested Mr. Chin and the other persons found on the site, and seized their equipment. The then OCG was further advised that this matter was before the May Pen Resident Magistrate's Court."<sup>25</sup>

4.5.8 Subsequent to the decision that was made by the MSTEM, to suspend the Quarry Licence that was issued to Messrs. Joseph and Roy Smith, the DI perused a letter dated April 22, 2015, which was addressed to the 'Department of Mining & Geology', by Mr. George Clue, Attorney-at-Law, representing Messrs. Joseph Smith and Roy Smith. The letter makes

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<sup>23</sup> Mr. Paul Chin was engaged by Messrs. Joseph and Roy Smith to provide equipment for the quarrying activities at the referenced location.

<sup>25</sup> Requisition response of Mr. Clinton Thompson, then Commissioner of Mines, Ministry of Energy and Mining, dated September 11, 2015, response #8.



reference to an instruction that was issued by the MSTEM, on April 21, 2015, to the Licensees to cease operation and remove all equipment on the site. Mr. George Clue also indicated that the property on which his client's quarrying activities were being conducted did not belong to Jamalco and that the MGD should speedily resolve the matter.<sup>26</sup>

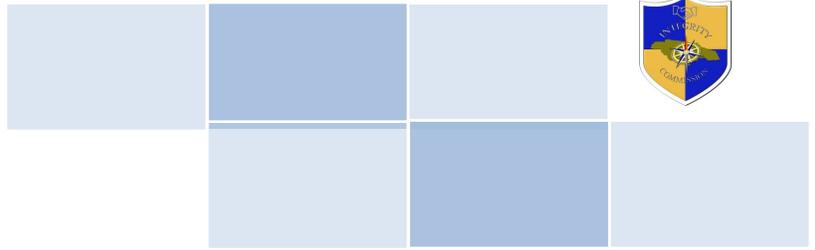
4.5.8 In order to further determine the veracity of the allegations regarding the ownership of the property and illegal sand mining at the referenced location, Mr. Joseph Smith was summoned by the then Contractor General to attend a hearing on January 26, 2017. During the course of the hearing, Mr. Joseph Smith advised that the property was given to him by the late Michael Manley, in 1975, to cultivate sugar cane and that there was a lease arrangement for forty (49) years.<sup>27</sup>

#### Information Provided by Jamalco in Relation to Allegation of Illegal Sand Mining on Property Owned by the Company

4.6 In an effort to determine whether Jamalco was aware of the allegations surrounding illegal sand mining on properties owned by the company, the then OCG directed a requisition to Mr. Antonio Melo, Chief Executive

<sup>26</sup> Copy of Letter dated April 22, 2015, from Mr. George Clue, Attorney-at-Law, addressed to Mr. Clinton Thompson, then Commissioner of Mines, and submitted by same in his response dated September 11, 2015, Labelled (8C).

<sup>27</sup> Extract of hearing held on January 26, 2017, with Mr. Joseph Smith & Mr. Khalil Latchman, Licensee's Business Confidant

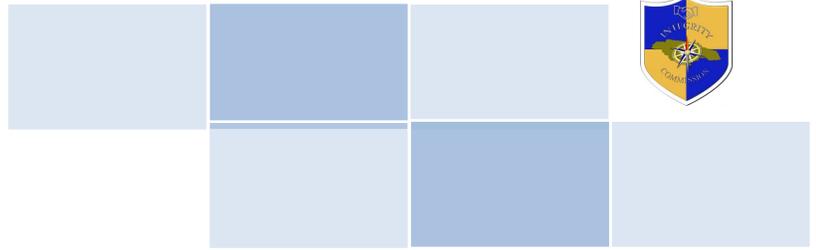


Officer, Jamalco, on July 20, 2016. In response to the referenced requisition, Mr. Antonio Melo stated, *inter alia*, that:

- 1) He received a report on June 9, 2015, indicating that a Notice had been erected on Jamalco's property and that the sign displayed the name "Joseph & Roy Smith, with Quarry Licence 2084";
- 2) The MGD was advised of the matter and Jamalco was further advised to engage the Police to have the sign removed;
- 3) On July 17, 2015, Jamalco removed the sign and the sieve, and that the operators subsequently returned with a different sieve, while complaining that Jamalco was preventing them from mining on 'their' land;
- 4) The matter was later reported to the Clarendon Police who conducted an operation on July 28, 2015, and based on reports received, two (2) tractors & two (2) trucks were seized and Evroy 'Paul' Chin and Raleigh Latchman arrested; and
- 5) There had been no further report of unauthorized or illegal sand mining made since.<sup>28</sup>

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<sup>28</sup> Requisition response of Mr. Antonio Melo, Chief Executive Officer, Jamalco, dated July 21, 2016, response #1.



4.6.1 In relation to the referenced matter, the DI further perused a copy of a Formal Order, which was made in the Resident Magistrate Court for the Parish of Clarendon, on December 14, 2015. The Order states that *“THE DEFENDANT EVROY CHIN AND KHALIL LATCHMAN ARE PERMITTED (sic) TO REMOVE FROM THE QUARRY SITE SITUATED AT CASSWELL HALL – DRY RIVER IN THE PARISH OF CLARENDON MATERIAL THAT HAS ALREADY BEEN MINED AND DISPOSE OF SAME.”*<sup>29</sup>

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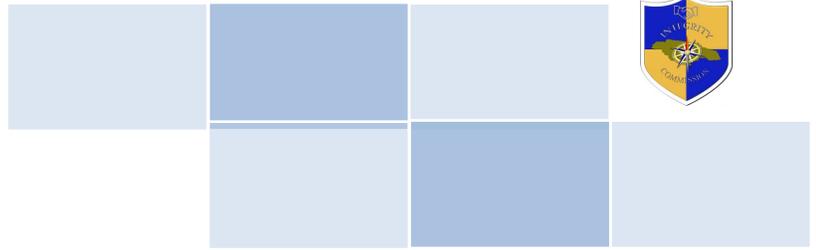
<sup>29</sup> Formal Order regarding R v Evroy Chin and Khalil Latchman, made in the Resident Magistrate Court for the Parish of Clarendon, on December 14, 2015.



## Chapter 5 – Conclusions

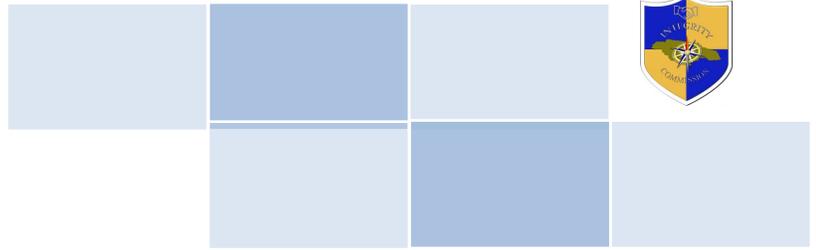
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- 5.1 This chapter outlines the conclusions determined by the Director of Investigation.
- 5.1.1 Based on the evidentiary material that was reviewed, the DI concludes that quarrying activities were being undertaken over lands situated along an old channel of the Rio Minho at Caswell Hall in the parish of Clarendon.
- 5.1.2 The DI concludes that the then Ministry of Science, Technology, Energy & Mining (MSTEM), failed to carry out the necessary due diligence in order to determine whether the applicants were duly authorized to conduct quarrying activities at the proposed location, prior to the issuance of the Quarry Licence.
- 5.1.3 Based upon the evidential material that was examined, the DI has reasonable grounds to make the following conclusions concerning the ownership and occupation of the parcel of land registered at Volume 967 Folio 49:



- (a) The parcel of land registered at Volume 967 Folio 49 is owned by Alcoa Minerals as at 2010;
- (b) The land registered at Volume 967 and Folio 49 refers to those parcels of land part of Caswell Hill and Bog Estate in the parish of Clarendon. The land is situated in the vicinity of the Caswell Hill and along the Rio Minho. The West Indies Sugar Company Limited was the original registered proprietor on the Certificate of Title and a transfer was registered on January 29, 2010, to Alcoa Minerals of Jamaica.
- (c) A lease was also registered on the Certificate of Title on April 6, 1994, from the West Indies Sugar Company Limited, to the Sugar Company of Jamaica, for a portion of the land. The agreed term of the lease is 49 years.
- (d) Joseph and Roy Smith were certified by the SCJ as being the occupiers of the above-mentioned land, which was leased to them in 1975, under the Land Lease project and in relation to which they are currently in occupation.

5.1.4 Based upon an examination of the Quarry Licence that was issued to Messrs. Joseph and Roy Smith, the DI notes that the referenced

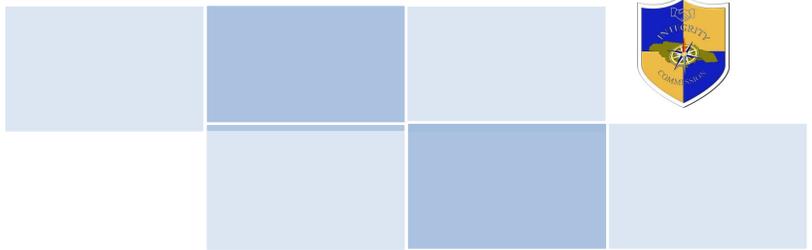


Licence was granted “for the purpose of quarrying sand over lands situated along an old channel of the Rio Minho at Caswell Hall in the parish of Clarendon.” The DI concludes that the licence was vague as it does not specify the precise area of the land to which the licence relates. The DI was therefore unable to determine the specific area/location, on which quarrying activities were permitted.

- 5.1.5 The DI concludes that the then Ministry of Science, Technology, Energy & Mining (MSTEM) failed to routinely monitor the quarrying activities of the Licensees to ensure compliance with Conditions 2 and 13, of the Special Conditions of the Quarry Licence, which was granted to Joseph Smith and Roy Smith.

For emphasis, Condition 2 of Licence states that “The extraction of quarry materials shall be confined to the hours of 7 a.m. – 6 p.m.” and Condition 13 dictates that “Quarried out areas shall be progressively rehabilitated to the satisfaction of the Commissioner of Mines.”

- 5.1.6 The DI has seen no evidence, at this material time, to suggest that any Official(s)/Officer(s) at the then, Ministry of Science, Technology, Energy & Mining (MSTEM), were involved in corrupt practices with



respect to the issuance of the referenced Quarry Licence to Messrs. Joseph and Roy Smith.



## Chapter 6 – Recommendations

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- 6.1 This chapter outlines the recommendations and corruption prevention initiatives identified by the Director of Investigation based upon the findings and conclusions of this investigation.
- 6.2 Having regard to the vagueness of the Quarry Licence that was issued to Messrs. Joseph and Roy Smith, it is recommended that the Ministry of Transport and Mining ensures that the licences which are issued for conduct of quarrying activities, include as a condition, the specific geographical area, (along with a map) on which mining is permitted to take place. This is critical for the effective enforcement of the terms of MGD's Licences, both by the MGD itself, the police and other enforcement agencies.
- 6.3 The DI also recommends that the MGD conducts routine monitoring activities at quarrying sites to ensure compliance with the Quarries Control Act (1983) and the Special Conditions of Quarry Licenses that have been granted to licensees.



6.4 In light of the fact that the Quarry Licence issued to Messrs. Joseph and Roy Smith, was approved during the tenure of Mr. Clinton Thompson, then Commissioner of Mines, the DI recommends the current Commissioner of Mines ensures that in instances where applicants are not the owners of the proposed quarry sites, the necessary permission/authorization for quarrying activities to take place, be obtained by the applicant from the fee simple holder of the proposed quarry site or a person with sufficient interest in the relevant parcel of land.

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Kevon A. Stephenson, J.P  
Director of Investigation

July 9, 2021