

Page 001 of 478 to/à Page 005 of 478

Withheld pursuant to/removed as

s.13 ; s.14

## Correspondence from the Environmental Assessment Office

---

From: Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
To: Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
Sent: December 20, 2017 11:46:57 AM PST  
Attachments: FW: Correspondence from the Environmental Assessment Office, FW:  
Correspondence from the Environmental Assessment Office, FW:  
Correspondence from the Environmental Assessment Office, FW:  
Correspondence from the Environmental Assessment Office, image001.jpg

Second attempt on 2 failed email addresses.

*Geoffrey Conder* | Environmental Assessment Office | Telephone 778 698-9331





## **FW: Correspondence from the Environmental Assessment Office**

---

From: Loiacono, Sabrina EAO:EX <Sabrina.Loiacono@gov.bc.ca>  
To: Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
Sent: December 20, 2017 11:45:26 AM PST

FYI

Kind regards,

S.

---

**From:** Mail Delivery Subsystem [mailto:postmaster@gems9.gov.bc.ca]

**Sent:** Wednesday, December 20, 2017 11:45 AM

**To:** Loiacono, Sabrina EAO:EX

**Subject:** Undeliverable: Correspondence from the Environmental Assessment Office

### **Delivery has failed to these recipients or groups:**

[chief@xenigwetin.ca](mailto:chief@xenigwetin.ca)

The email address you entered couldn't be found. Please check the recipient's email address and try to resend the message. If the problem continues, please contact your helpdesk.

The following organization rejected your message:<sup>s.15</sup>

s.15

Page 008 of 478

Withheld pursuant to/removed as

s.15

## FW: Correspondence from the Environmental Assessment Office

---

From: Loiacono, Sabrina EAO:EX <Sabrina.Loiacono@gov.bc.ca>  
To: chief@xenigwetin.ca  
Cc: Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
Sent: December 20, 2017 11:44:42 AM PST  
Attachments: image001.jpg, 13329-Prosperity EAO response to TNG Final 20Dec17.pdf

My apologies, we had the incorrect email address for you.

Kind regards,

Sabrina

**Sabrina Loiacono**

*Manager- Executive Operations*

*Environmental Assessment Office*

*Ministry of Environment and Climate Change Strategy*

*Government of British Columbia*

*250-356-7475*



This e-mail is intended only for the person to whom it is addressed (the "addressee") and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use that a person other than the addressee makes of this communication is prohibited and any reliance or decisions made based on it, are the responsibility of such person. We accept no responsibility for any loss or damages suffered by any person other than the addressee as a result of decisions made or actions taken based on this communication or otherwise. If you received this in error, please contact the sender and destroy all copies of this e-mail.

---

**From:** Loiacono, Sabrina EAO:EX

**Sent:** Wednesday, December 20, 2017 10:38 AM

**To:** 'jlaplante@tsilhqotin.ca'

**Cc:** 'ChiefJoe@tletingoxtin.ca'; 'chief@esdilagh.ca'; 'tooseyfrontdesk@hotmail.com'; 'roger@xenigwetin.ca'; 'manager@tsideldel.org'; 'tng-director@tsilhqotin.ca'; Murphy, Shelley EAO:EX; Jardine, Kevin EAO:EX

**Subject:** Correspondence from the Environmental Assessment Office

Good morning,

Please find attached a letter from Kevin Jardine, Associate Deputy Minister, Environmental Assessment Office.

Kind regards,

Sabrina

**Sabrina Loiacono**

*Manager- Executive Operations*

*Environmental Assessment Office*

*Ministry of Environment and Climate Change Strategy*

*Government of British Columbia*

*250-356-7475*



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File: 30200-25/PROSPERITY-19: 04-01

Reference: 313329

December 20, 2017

**SENT VIA EMAIL**

J.P. Laplante  
Mining, Oil and Gas Manager  
Tsilhqot'in National Government  
253 Fourth Avenue North  
Williams Lake, BC V2G 4T4  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Dear Mr. Laplante:

Thank you for your letter of December 7, 2017, regarding the assessment of Taseko Mines Ltd.'s (Taseko) application to amend its Environmental Assessment Certificate for the Prosperity Gold-Copper Project (proposed amendment).

I appreciate the extensive participation of Tsilhqot'in members during the Federal Panel Process. I am currently considering the concerns and perspectives raised in your letter and will provide you with a detailed response in the near future.

As requested, we will remove reference to Tsilhqot'in National Government as a member/ participant in the Environmental Assessment Office's (EAO) working group for the proposed amendment in our documentation going forward. We will revise the procedures and workplan accordingly after consideration of the concerns raised in your letter.

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...2

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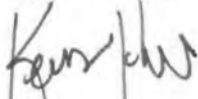
Environmental  
Assessment  
Office

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> Fl-836 Yates Street  
Victoria BC V8W 1L8

Please let me know if you would like to meet to discuss any of the above points. You can also contact Shelley Murphy at 778 698-9311 (note that this is a new phone number) or by email at [Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca).

With best regards,



Kevin Jardine  
Associate Deputy Minister

cc: Chief Joe Alphonse, Tribal Chairman, Tsilhqot'in National Government  
[ChiefJoe@tletingoxtin.ca](mailto:ChiefJoe@tletingoxtin.ca)

Chief Victor Stump, ?Esdilagh First Nation  
[chief@esdilagh.ca](mailto:chief@esdilagh.ca)

Chief Francis Laceese, Tl'esqox First Nation  
[tooseyfrontdesk@hotmail.com](mailto:tooseyfrontdesk@hotmail.com)

Chief Russell Myers Ross, Yunetsit'in Government  
[rmross@yunesitin.ca](mailto:rmross@yunesitin.ca)

Chief Roger William, Xeni Gwet'in First Nation  
[roger@xenigwetin.ca](mailto:roger@xenigwetin.ca)

Chief Percy Guichon, Tsi Deldel First Nation  
[manager@tsideldel.org](mailto:manager@tsideldel.org)

Crystal Verhaeghe, Executive Director, Tsilhqot'in National Government  
[tng-director@tsilhqotin.ca](mailto:tng-director@tsilhqotin.ca)

Shelley Murphy, Executive Project Director, Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

## FW: Correspondence from the Environmental Assessment Office

---

From: Loiacono, Sabrina EAO:EX <Sabrina.Loiacono@gov.bc.ca>  
To: ChiefJoe@tletinqoxtin.ca  
Cc: Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
Sent: December 20, 2017 11:43:54 AM PST  
Attachments: image001.jpg, 13329-Prosperity EAO response to TNG Final 20Dec17.pdf

My apologies, we had the incorrect email address for you.

Kind regards,

Sabrina

**Sabrina Loiacono**

*Manager- Executive Operations*

*Environmental Assessment Office*

*Ministry of Environment and Climate Change Strategy*

*Government of British Columbia*

*250-356-7475*



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---

**From:** Loiacono, Sabrina EAO:EX

**Sent:** Wednesday, December 20, 2017 10:38 AM

**To:** 'jlaplante@tsilhqotin.ca'

**Cc:** 'ChiefJoe@tletinqoxtin.ca'; 'chief@esdilagh.ca'; 'tooseyfrontdesk@hotmail.com'; 'roger@xenigwetin.ca'; 'manager@tsideldel.org'; 'tng-director@tsilhqotin.ca'; Murphy, Shelley EAO:EX; Jardine, Kevin EAO:EX

**Subject:** Correspondence from the Environmental Assessment Office

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*Manager- Executive Operations*

*Environmental Assessment Office*

*Ministry of Environment and Climate Change Strategy*

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File: 30200-25/PROSPERITY-19: 04-01

Reference: 313329

December 20, 2017

**SENT VIA EMAIL**

J.P. Laplante  
Mining, Oil and Gas Manager  
Tsilhqot'in National Government  
253 Fourth Avenue North  
Williams Lake, BC V2G 4T4  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Dear Mr. Laplante:

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...2

---

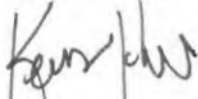
Environmental  
Assessment  
Office

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> Fl-836 Yates Street  
Victoria BC V8W 1L8

Please let me know if you would like to meet to discuss any of the above points. You can also contact Shelley Murphy at 778 698-9311 (note that this is a new phone number) or by email at [Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca).

With best regards,



Kevin Jardine  
Associate Deputy Minister

cc: Chief Joe Alphonse, Tribal Chairman, Tsilhqot'in National Government  
[ChiefJoe@tletingoxtin.ca](mailto:ChiefJoe@tletingoxtin.ca)

Chief Victor Stump, ?Esdilagh First Nation  
[chief@esdilagh.ca](mailto:chief@esdilagh.ca)

Chief Francis Laceese, Tl'esqox First Nation  
[tooseyfrontdesk@hotmail.com](mailto:tooseyfrontdesk@hotmail.com)

Chief Russell Myers Ross, Yunetsit'in Government  
[rmross@yunesitin.ca](mailto:rmross@yunesitin.ca)

Chief Roger William, Xeni Gwet'in First Nation  
[roger@xenigwetin.ca](mailto:roger@xenigwetin.ca)

Chief Percy Guichon, Tsi Deldel First Nation  
[manager@tsideldel.org](mailto:manager@tsideldel.org)

Crystal Verhaeghe, Executive Director, Tsilhqot'in National Government  
[tng-director@tsilhqotin.ca](mailto:tng-director@tsilhqotin.ca)

Shelley Murphy, Executive Project Director, Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)



## **FW: Correspondence from the Environmental Assessment Office**

---

From: Loiacono, Sabrina EAO:EX <Sabrina.Loiacono@gov.bc.ca>  
To: Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
Sent: December 20, 2017 11:45:18 AM PST

fyi  
Kind regards,  
S.

---

**From:** Mail Delivery Subsystem [mailto:postmaster@gems9.gov.bc.ca]  
**Sent:** Wednesday, December 20, 2017 11:44 AM  
**To:** Loiacono, Sabrina EAO:EX  
**Subject:** Undeliverable: Correspondence from the Environmental Assessment Office

### **Delivery has failed to these recipients or groups:**

[ChiefJoe@tletinqoxtin.ca](mailto:ChiefJoe@tletinqoxtin.ca)

The recipient's email address isn't correct. Please check the email address and try to resend the message. If the problem continues, contact your helpdesk.

The following organization rejected your message: tletinqoxtin.ca.

Page 016 of 478

Withheld pursuant to/removed as

s.15

## **FW: Correspondence from the Environmental Assessment Office**

---

From: Loiacono, Sabrina EAO:EX <Sabrina.Loiacono@gov.bc.ca>  
To: Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
Sent: December 20, 2017 2:17:10 PM PST  
Attachments: image001.jpg, 13329-Prosperity EAO response to TNG Final 20Dec17.pdf

FYI

Kind regards,

S.

---

**From:** Loiacono, Sabrina EAO:EX

**Sent:** Wednesday, December 20, 2017 2:17 PM

**To:** 'tng-director@tsilhqotin.ca'

**Cc:** Murphy, Shelley EAO:EX

**Subject:** FW: Correspondence from the Environmental Assessment Office

Mr. Crowe,

It has come to my attention that we accidentally placed the wrong name in the CC list for Executive Director for the Tsilhqot'in National Government. Please accept my sincere apologies.

Kind regards,

S.

---

**From:** Loiacono, Sabrina EAO:EX

**Sent:** Wednesday, December 20, 2017 10:38 AM

**To:** 'jlaplante@tsilhqotin.ca'

**Cc:** 'ChiefJoe@tletingoxtin.ca'; 'chief@esdilagh.ca'; 'tooseyfrontdesk@hotmail.com'; 'roger@xenigwetin.ca'; 'manager@tsideldel.org'; 'tng-director@tsilhqotin.ca'; Murphy, Shelley EAO:EX; Jardine, Kevin EAO:EX

**Subject:** Correspondence from the Environmental Assessment Office

Good morning,

Please find attached a letter from Kevin Jardine, Associate Deputy Minister, Environmental Assessment Office.

Kind regards,

Sabrina

**Sabrina Loiacono**

*Manager- Executive Operations*

*Environmental Assessment Office*

*Ministry of Environment and Climate Change Strategy*

*Government of British Columbia*

*250-356-7475*



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File: 30200-25/PROSPERITY-19: 04-01

Reference: 313329

December 20, 2017

**SENT VIA EMAIL**

J.P. Laplante  
Mining, Oil and Gas Manager  
Tsilhqot'in National Government  
253 Fourth Avenue North  
Williams Lake, BC V2G 4T4  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Dear Mr. Laplante:

Thank you for your letter of December 7, 2017, regarding the assessment of Taseko Mines Ltd.'s (Taseko) application to amend its Environmental Assessment Certificate for the Prosperity Gold-Copper Project (proposed amendment).

I appreciate the extensive participation of Tsilhqot'in members during the Federal Panel Process. I am currently considering the concerns and perspectives raised in your letter and will provide you with a detailed response in the near future.

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...2

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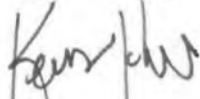
Environmental  
Assessment  
Office

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> Fl-836 Yates Street  
Victoria BC V8W 1L8

Please let me know if you would like to meet to discuss any of the above points. You can also contact Shelley Murphy at 778 698-9311 (note that this is a new phone number) or by email at [Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca).

With best regards,



Kevin Jardine  
Associate Deputy Minister

cc: Chief Joe Alphonse, Tribal Chairman, Tsilhqot'in National Government  
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Chief Victor Stump, ?Esdilagh First Nation  
[chief@esdilagh.ca](mailto:chief@esdilagh.ca)

Chief Francis Laceese, Tl'esqox First Nation  
[tooseyfrontdesk@hotmail.com](mailto:tooseyfrontdesk@hotmail.com)

Chief Russell Myers Ross, Yunetsit'in Government  
[rmross@yunesitin.ca](mailto:rmross@yunesitin.ca)

Chief Roger William, Xeni Gwet'in First Nation  
[roger@xenigwetin.ca](mailto:roger@xenigwetin.ca)

Chief Percy Guichon, Tsi Deldel First Nation  
[manager@tsideldel.org](mailto:manager@tsideldel.org)

Crystal Verhaeghe, Executive Director, Tsilhqot'in National Government  
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Shelley Murphy, Executive Project Director, Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

## FW: Correspondence from the Environmental Assessment Office

---

From: Loiacono, Sabrina EAO:EX <Sabrina.Loiacono@gov.bc.ca>  
To: Ervin@tsideldel.org  
Cc: Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>  
Sent: December 20, 2017 2:22:05 PM PST  
Attachments: image001.jpg, 13329-Prosperity EAO response to TNG Final 20Dec17.pdf

Dear Chief Charleyboy,

It has come to my attention that we accidentally placed the wrong name in the CC list for Chief of the Tsi Deldel First Nation. Please accept my sincere apologies.

Kind regards,  
S.

---

**From:** Loiacono, Sabrina EAO:EX  
**Sent:** Wednesday, December 20, 2017 10:38 AM  
**To:** 'jlaplante@tsilhqotin.ca'  
**Cc:** 'ChiefJoe@tletingoxtin.ca'; 'chief@esdilagh.ca'; 'tooseyfrontdesk@hotmail.com'; 'roger@xenigwetin.ca'; 'manager@tsideldel.org'; 'tng-director@tsilhqotin.ca'; Murphy, Shelley EAO:EX; Jardine, Kevin EAO:EX  
**Subject:** Correspondence from the Environmental Assessment Office

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*250-356-7475*



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File: 30200-25/PROSPERITY-19: 04-01

Reference: 313329

December 20, 2017

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J.P. Laplante  
Mining, Oil and Gas Manager  
Tsilhqot'in National Government  
253 Fourth Avenue North  
Williams Lake, BC V2G 4T4  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

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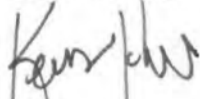
Environmental  
Assessment  
Office

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> Fl-836 Yates Street  
Victoria BC V8W 1L8

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With best regards,



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Chief Victor Stump, ?Esdilagh First Nation  
[chief@esdilagh.ca](mailto:chief@esdilagh.ca)

Chief Francis Laceese, Tl'esqox First Nation  
[tooseyfrontdesk@hotmail.com](mailto:tooseyfrontdesk@hotmail.com)

Chief Russell Myers Ross, Yunetsit'in Government  
[rmross@yunesitin.ca](mailto:rmross@yunesitin.ca)

Chief Roger William, Xeni Gwet'in First Nation  
[roger@xenigwetin.ca](mailto:roger@xenigwetin.ca)

Chief Percy Guichon, Tsi Deldel First Nation  
[manager@tsideldel.org](mailto:manager@tsideldel.org)

Crystal Verhaeghe, Executive Director, Tsilhqot'in National Government  
[tng-director@tsilhqotin.ca](mailto:tng-director@tsilhqotin.ca)

Shelley Murphy, Executive Project Director, Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)



## Correspondence from the Environmental Assessment Office

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To: chiefjoe@tletinqox.ca  
Cc: Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>, Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>  
Sent: December 21, 2017 9:46:22 AM PST  
Attachments: image001.jpg, 13329-Prosperity EAO response to TNG Final 20Dec17.pdf

My apologies, we had the incorrect email address for you.

Kind regards,

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*Environmental Assessment Office*

*Ministry of Environment and Climate Change Strategy*

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*250-356-7475*



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**Cc:** 'ChiefJoe@tletinqoxin.ca'; 'chief@esdilagh.ca'; 'tooseyfrontdesk@hotmail.com'; 'roger@xenigwetin.ca'; 'manager@tsideldel.org'; 'tng-director@tsilhqotin.ca'; Murphy, Shelley EAO:EX; Jardine, Kevin EAO:EX

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*Government of British Columbia*

*250-356-7475*



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File: 30200-25/PROSPERITY-19: 04-01

Reference: 313329

December 20, 2017

**SENT VIA EMAIL**

J.P. Laplante  
Mining, Oil and Gas Manager  
Tsilhqot'in National Government  
253 Fourth Avenue North  
Williams Lake, BC V2G 4T4  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Dear Mr. Laplante:

Thank you for your letter of December 7, 2017, regarding the assessment of Taseko Mines Ltd.'s (Taseko) application to amend its Environmental Assessment Certificate for the Prosperity Gold-Copper Project (proposed amendment).

I appreciate the extensive participation of Tsilhqot'in members during the Federal Panel Process. I am currently considering the concerns and perspectives raised in your letter and will provide you with a detailed response in the near future.

As requested, we will remove reference to Tsilhqot'in National Government as a member/ participant in the Environmental Assessment Office's (EAO) working group for the proposed amendment in our documentation going forward. We will revise the procedures and workplan accordingly after consideration of the concerns raised in your letter.

There are some aspects of your characterization of the EAO's process for the proposed amendment with which we disagree. However, given the concerns raised in your letter - and recognizing the related expenditures of time and resources the Tsilhqot'in have made over the past several years - I will address those once I have had the opportunity to fully consider your letter.

...2

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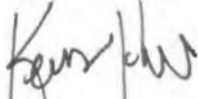
Environmental  
Assessment  
Office

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> Fl-836 Yates Street  
Victoria BC V8W 1L8

Please let me know if you would like to meet to discuss any of the above points. You can also contact Shelley Murphy at 778 698-9311 (note that this is a new phone number) or by email at [Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca).

With best regards,



Kevin Jardine  
Associate Deputy Minister

cc: Chief Joe Alphonse, Tribal Chairman, Tsilhqot'in National Government  
[ChiefJoe@tletingoxtin.ca](mailto:ChiefJoe@tletingoxtin.ca)

Chief Victor Stump, ?Esdilagh First Nation  
[chief@esdilagh.ca](mailto:chief@esdilagh.ca)

Chief Francis Laceese, Tl'esqox First Nation  
[tooseyfrontdesk@hotmail.com](mailto:tooseyfrontdesk@hotmail.com)

Chief Russell Myers Ross, Yunetsit'in Government  
[rmross@yunesitin.ca](mailto:rmross@yunesitin.ca)

Chief Roger William, Xeni Gwet'in First Nation  
[roger@xenigwetin.ca](mailto:roger@xenigwetin.ca)

Chief Percy Guichon, Tsi Deldel First Nation  
[manager@tsideldel.org](mailto:manager@tsideldel.org)

Crystal Verhaeghe, Executive Director, Tsilhqot'in National Government  
[tng-director@tsilhqotin.ca](mailto:tng-director@tsilhqotin.ca)

Shelley Murphy, Executive Project Director, Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

## FW: Correspondence from the Environmental Assessment Office

---

From: Loiacono, Sabrina EAO:EX <Sabrina.Loiacono@gov.bc.ca>  
To: s.22  
Cc: Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>, Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>  
Sent: December 21, 2017 9:47:04 AM PST  
Attachments: image001.jpg, 13329-Prosperity EAO response to TNG Final 20Dec17.pdf

My apologies, we had the incorrect email address for you.

Kind regards,

Sabrina

**Sabrina Loiacono**

*Manager- Executive Operations*

*Environmental Assessment Office*

*Ministry of Environment and Climate Change Strategy*

*Government of British Columbia*

*250-356-7475*



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---

**From:** Loiacono, Sabrina EAO:EX

**Sent:** Wednesday, December 20, 2017 10:38 AM

**To:** 'jlaplante@tsilhqotin.ca'

**Cc:** 'ChiefJoe@tletingoxtin.ca'; 'chief@esdilagh.ca'; 'tooseyfrontdesk@hotmail.com'; 'roger@xenigwetin.ca'; 'manager@tsideldel.org'; 'tng-director@tsilhqotin.ca'; Murphy, Shelley EAO:EX; Jardine, Kevin EAO:EX

**Subject:** Correspondence from the Environmental Assessment Office

Good morning,

Please find attached a letter from Kevin Jardine, Associate Deputy Minister, Environmental Assessment Office.

Kind regards,

Sabrina

**Sabrina Loiacono**

*Manager- Executive Operations*

*Environmental Assessment Office*

*Ministry of Environment and Climate Change Strategy*

*Government of British Columbia*

*250-356-7475*



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File: 30200-25/PROSPERITY-19: 04-01

Reference: 313329

December 20, 2017

**SENT VIA EMAIL**

J.P. Laplante  
Mining, Oil and Gas Manager  
Tsilhqot'in National Government  
253 Fourth Avenue North  
Williams Lake, BC V2G 4T4  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Dear Mr. Laplante:

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...2

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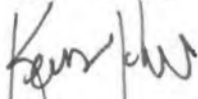
Environmental  
Assessment  
Office

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> Fl-836 Yates Street  
Victoria BC V8W 1L8

Please let me know if you would like to meet to discuss any of the above points. You can also contact Shelley Murphy at 778 698-9311 (note that this is a new phone number) or by email at [Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca).

With best regards,



Kevin Jardine  
Associate Deputy Minister

cc: Chief Joe Alphonse, Tribal Chairman, Tsilhqot'in National Government  
[ChiefJoe@tletingoxtin.ca](mailto:ChiefJoe@tletingoxtin.ca)

Chief Victor Stump, ?Esdilagh First Nation  
[chief@esdilagh.ca](mailto:chief@esdilagh.ca)

Chief Francis Laceese, Tl'esqox First Nation  
[tooseyfrontdesk@hotmail.com](mailto:tooseyfrontdesk@hotmail.com)

Chief Russell Myers Ross, Yunetsit'in Government  
[rmross@yunesitin.ca](mailto:rmross@yunesitin.ca)

Chief Roger William, Xeni Gwet'in First Nation  
[roger@xenigwetin.ca](mailto:roger@xenigwetin.ca)

Chief Percy Guichon, Tsi Deldel First Nation  
[manager@tsideldel.org](mailto:manager@tsideldel.org)

Crystal Verhaeghe, Executive Director, Tsilhqot'in National Government  
[tng-director@tsilhqotin.ca](mailto:tng-director@tsilhqotin.ca)

Shelley Murphy, Executive Project Director, Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

## Prosperity: TNG correspondence

---

From: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>  
To: Russell E. Hallbauer <RHallbauer@tasekomines.com>  
Cc: Scott Jones <SJones@tasekomines.com>, Katherine Gizikoff <KGizikoff@tasekomines.com>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
Sent: December 21, 2017 3:52:44 PM PST  
Attachments: 13329-Prosperity EAO response to TNG Final 20Dec17.pdf, image001.jpg, 2017 12 07 JPL - KJ-SM re Approved Amendment Process.pdf

Good Afternoon,

For your information attached please find incoming TNG correspondence of December 12, 2017 and the EAO's response of December 20, 2017.

Regards,

Fern

**Fern Stockman** | Project Assessment Manager | BC Environmental Assessment Office  
NEW Phone #: 778 698-9313 | Mobile: 250-889-0417 | Fax: 250-387-9610 | [www.eao.gov.bc.ca](http://www.eao.gov.bc.ca)





File: 30200-25/PROSPERITY-19: 04-01

Reference: 313329

December 20, 2017

**SENT VIA EMAIL**

J.P. Laplante  
Mining, Oil and Gas Manager  
Tsilhqot'in National Government  
253 Fourth Avenue North  
Williams Lake, BC V2G 4T4  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

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...2

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Environmental  
Assessment  
Office

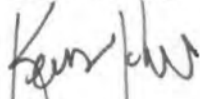
Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> Fl-836 Yates Street  
Victoria BC V8W 1L8



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With best regards,



Kevin Jardine  
Associate Deputy Minister

cc: Chief Joe Alphonse, Tribal Chairman, Tsilhqot'in National Government  
[ChiefJoe@tletingoxtin.ca](mailto:ChiefJoe@tletingoxtin.ca)

Chief Victor Stump, ?Esdilagh First Nation  
[chief@esdilagh.ca](mailto:chief@esdilagh.ca)

Chief Francis Laceese, Tl'esqox First Nation  
[tooseyfrontdesk@hotmail.com](mailto:tooseyfrontdesk@hotmail.com)

Chief Russell Myers Ross, Yunetsit'in Government  
[rmross@yunesitin.ca](mailto:rmross@yunesitin.ca)

Chief Roger William, Xeni Gwet'in First Nation  
[roger@xenigwetin.ca](mailto:roger@xenigwetin.ca)

Chief Percy Guichon, Tsi Deldel First Nation  
[manager@tsideldel.org](mailto:manager@tsideldel.org)

Crystal Verhaeghe, Executive Director, Tsilhqot'in National Government  
[tng-director@tsilhqotin.ca](mailto:tng-director@tsilhqotin.ca)

Shelley Murphy, Executive Project Director, Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)



## T̑SILHQOT'IN NATIONAL GOVERNMENT

253 – 4<sup>th</sup> Avenue North • Williams Lake, BC V2G 4T4 • Phone (250) 392-3918 • Fax (250) 398-5798

December 7, 2017

Environmental Assessment Office  
PO BOX 9426 STN PROV GOVT  
VICTORIA BC  
V8W9V1  
CANADA

**Attn: Kevin Jardine**  
Associate Deputy Minister

**Shelley Murphy**  
Executive Project Director

via email: [Kevin.Jardine@gov.bc.ca](mailto:Kevin.Jardine@gov.bc.ca) and [shelley.murphy@gov.bc.ca](mailto:shelley.murphy@gov.bc.ca)

Dear Mr. Jardine and Ms. Murphy:

I write in response to Ms. Murphy's letter of June 30, 2017 to myself, enclosing the Environmental Assessment Office's ("**EAO**") approved (revised) procedures ("**Revised Procedures**") and work plan ("**June 2017 Work Plan**") for reviewing Taseko Mines Limited's ("**TML**") application to amend its Environmental Assessment Certificate for the rejected Prosperity Mine.

I also write in response to Mr. Jardine's letter to Chief Joe Alphonse dated June 21, 2017, and a previous letter to myself dated June 12, 2017, outlining factors to be considered ("**Factors to Consider**") by the EAO Executive Director or Minister about whether or not to grant the amendment.

As you are likely aware, shortly after the EAO's decision to approve the Revised Procedures and the June 2017 Work Plan, the Tsilhqot'in Nation was literally engulfed in unprecedented wildfires, now the largest in British Columbia's ("**B.C.**") history. This has affected our ability to respond to the EAO in a timely manner. We appreciate your understanding with respect to the delay in our response.

We are profoundly disappointed that the EAO has decided to proceed on its course of radically altering the procedures for the amendment review. As canvassed in our correspondence to the EAO going back to 2016, the decision to jettison the New Prosperity

Panel Report ("**Panel Report**") as the *main* source for information and findings<sup>1</sup> and as the "main assessment document in the referral package to decision makers"<sup>2</sup> undercuts the basic integrity of the process and the legitimate expectations on the part of the Tsilhqot'in Nation.

British Columbia has reneged on its government-to-government commitment to have some independence of process for the amendment review. This was explicitly achieved through the reliance on the Federal Panel Report as the main assessment document, which flowed from a process in which the Tsilhqot'in Nation participated fully.

That process was laborious, expensive, and had participation from Tsilhqot'in members, leaders, Elders, youth, technical experts and key provincial ministries. Multiple reviewers raised serious technical concerns, including the BC Ministry of Energy and Mines, who raised a number of critical concerns with TML's mitigation plan to recirculate water in Teztan Biny (Fish Lake). As just one example, the Panel Report notes that, "The Ministry [of Energy and Mines] concluded that...Fish Lake might require recirculation in perpetuity, and that the proposed target water quality objectives for Fish Lake could be either technically or financially unachievable."<sup>3</sup> The resulting findings of significant adverse effects were therefore of no surprise to anyone who participated in the review.

To meaningfully participate in that process also required extensive financial resources (hundreds of thousands of dollars); much more than that which is being offered by the EAO to the Tsilhqot'in National Government ("**TNG**").<sup>4</sup> In fact, the EAO's offer is so low that participating with such minimal resources, when much of the focus is on highly technical issues requiring expensive experts, would put TNG at an enormous and unfair handicap. In effect, it would guarantee a less than meaningful ability to participate.

The scathing findings of the Panel Report confirmed the profound environmental and cultural impacts to the Tsilhqot'in people, and resulted in rejection by the Federal Government. The EAO and TML both accepted this process as *the procedure* by which the EAO would review the amendment application. To reverse course five years later, simply because the Proponent was not happy with the scathing results, is highly prejudicial to the Tsilhqot'in Nation.

Further, the EAO's Revised Procedures are now in direct conflict with recent decisions from the Federal Court: the first a ruling on the Panel Report and Panel review process, and the second ruling on the Federal rejection of the mine. The Federal Court upheld both the Panel

---

<sup>1</sup> "[EAO] will rely principally on the federal review Panel environmental assessment...for the information needed for EAO's assessment of the requested amendment", *EAO Procedures for assessment of the proposed amendment to the Environmental Assessment Certificate for the Prosperity Gold-Copper Project*.

<sup>2</sup> Letter, S. Murphy to Chief Alphonse, March 3, 2017, p. 3.

<sup>3</sup> New Prosperity Panel Report, p. 78.

<sup>4</sup> \$20,000 was offered in the letter from S. Murphy to Chief Alphonse, March 3, 2017, p. 8.

Report<sup>5</sup> and the Federal decision<sup>6</sup>, and dismissed TML's applications for judicial review. Costs were awarded to TNG and the Federal Government.

In *Taseko Mines Limited v Minister of the Environment and others*, 2017 FC 1099, the Court concluded that,

- "a) The Panel did not breach any procedural fairness / *audi alteram partem* / legitimate expectation principles; and
- b) The Panel's factual findings were open for it to make and were reasonable."<sup>7</sup>

As a result, the rationale by which the EAO attempted to justify your misguided Revised Procedures no longer exists. In light of the two judgements, we urge the EAO to reconsider this entire process for the amended approval of a mine that simply *cannot be lawfully built*.

The EAO already had almost no credibility in Tsilhqot'in Territory. As you are aware, the actions by the EAO in 2009 and 2010 (and 2015) with respect to the B.C. review process for the Prosperity Mine was a betrayal of the Tsilhqot'in Nation who sought to establish a Joint Panel Review. The EAO refused to establish an independent review panel, and in response, the Tsilhqot'in Nation rejected the legitimacy of the process and B.C.'s 2010 rubber-stamp approval of the mine. The Tsilhqot'in Nation has twice been vindicated by two independent Federal Panel reports and the resulting two Federal rejections of the mine.

As a result of the EAO's Revised Procedures, and with the support of the recent Federal Court decisions, we are not in a position to participate in a whitewash of the Panel Report. This process has lost any credibility it purported to have. Please remove all references to TNG as a member/participant in your working group<sup>8</sup> (e.g. page 1 of the Work Plan).

Further, I would like to clarify a point with respect to TNG's comments before the decision, and a misunderstanding with respect to the "Information to be Considered":

We are distressed that the EAO continues to misunderstand our concern with the original Provincial environmental assessment and its conclusions, based on an incomplete record (see March 7, 2017 letter from myself to Mr. Jardine), as confirmed by the Prosperity Review Panel. We did not ask the EAO to "reconsider or set aside the Ministers' previous approval of Prosperity".<sup>9</sup> Rather, we raised concerns that the EAO's original assessment that the Prosperity Mine would not have significant impacts on Tsilhqot'in rights and interests was based on an incomplete record.<sup>10</sup> We asked for a fresh assessment of impacts on Tsilhqot'in current use of these lands and waters for traditional purposes, Tsilhqot'in cultural heritage, Tsilhqot'in historical and archaeological sites, Tsilhqot'in socio-economic

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<sup>5</sup> *Taseko Mines Limited v Minister of the Environment and others*, 2017 FC 1099.

<sup>6</sup> *Taseko Mines Limited v Minister of the Environment and others*, 2017 FC 1100.

<sup>7</sup> *Taseko Mines Limited v Minister of the Environment and others*, 2017 FC 1099, para. 125.

<sup>8</sup> An example of reference to TNG as a member of the Working Group can be found on page 1 of the Work Plan.

<sup>9</sup> Letter, K. Jardine to J.P. Laplante, June 12, 2017, p. 4.

<sup>10</sup> *Prosperity Panel Report*, pp. i-ii, 29-31.

well-being and Tsilhqot'in Aboriginal rights. For the amendment process to continue to rely upon the erroneous conclusions from 2010 is another deep flaw in the Revised Procedures.

Sincerely,



---

**J.P. Laplante**

TNG Mining, Oil and Gas Manager

cc. *Tsilhqot'in Chiefs*  
*Gary Crowe (TNG Executive Director)*

## Prosperity correspondence between EAO and Taseko - batch 1

---

From: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>  
To: J.P. Laplante <jlaplante@tsilhqotin.ca>, jay@jaynelsonlaw.com  
Cc: Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
Sent: February 8, 2018 12:30:56 PM PST  
Attachments: Prosperity: management plans and FN consultation, Correspondence from the Environmental Assessment Office, image001.jpg, image002.jpg, Correspondence from Shelley Murphy, EAO, FW: TNG Response to EAO Proposed Procedures for Amendment Process, FW: TNG Response to TML Comments, Prosperity amendment review: update on next steps regarding the framework

Good Afternoon J.P. and Jay,

I am writing to provide you with recent correspondence between the EAO and Taseko on the Prosperity Project. We had not previously shared this correspondence with TNG as we understood that TNG was occupied by the unprecedented wildfires in your territory over the summer months, and that TNG was strongly opposed to the EAO proceeding with the assessment of the amendment and did not want to be burdened by the review. Some correspondence we also consider to be transactional. However, given your January 8, 2018 reiteration of your request for copies of correspondence between the EAO and Taseko concerning the proposed amendment, I am providing to you now for your records. If there are types of information that you do not want to receive in the future, please let us know; otherwise we will continue to share with you all correspondence between EAO and Taseko.

There are a total of 23 attachments, spread over a few emails. If you have any trouble receiving or opening them, please let me know.

Regards,

Fern

**Fern Stockman** | Project Assessment Manager | BC Environmental Assessment Office  
NEW Phone #: 778 698-9313 | Mobile: 250-889-0417 | Fax: 250-387-9610 | [www.eao.gov.bc.ca](http://www.eao.gov.bc.ca)



**Fern Stockman** | Project Assessment Manager | BC Environmental Assessment Office  
NEW Phone #: 778 698-9313 | Mobile: 250-889-0417 | Fax: 250-387-9610 | [www.eao.gov.bc.ca](http://www.eao.gov.bc.ca)



## Prosperity: management plans and FN consultation

---

From: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>  
To: Russell E. Hallbauer <RHallbauer@tasekomines.com>  
Cc: Scott Jones <SJones@tasekomines.com>, Katherine Gizikoff  
<KGizikoff@tasekomines.com>, Murphy, Shelley EAO:EX  
<Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX  
<Jessica.Harris@gov.bc.ca>, Tombs, Joanna EAO:EX  
<Joanna.Tombs@gov.bc.ca>  
Sent: April 12, 2017 1:43:58 PM PDT  
Attachments: image001.jpg

Good Afternoon,

We have been reviewing the management plans that Taseko identified as having changes as a result of the New Prosperity proposal. We note that some of these management plans cover project components that overlap traditional territories of Aboriginal Groups other than TNG. In order to help us appropriately scope the required consultation with these other Aboriginal Groups, we would appreciate if Taseko could identify in more detail what specific changes have been made within each of these management plans that relate to the transmission line, access road and load out facility. The nature and significance of these changes are key factors to understanding EAO's consultation obligations.

Regards,

Fern

**Fern Stockman** | Project Assessment Manager | BC Environmental Assessment Office

**\*New Phone #: 250-387-1624** | Mobile: 250-889-0417 | Fax: 250-387-9610 | [www.eao.gov.bc.ca](http://www.eao.gov.bc.ca)



## Correspondence from the Environmental Assessment Office

---

From: Jardine, Kevin EAO:EX <Kevin.Jardine@gov.bc.ca>  
To: RHallbauer@TasekoMines.com  
Cc: Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, JMcManus@tasekomines.ca  
Sent: February 14, 2017 9:52:20 AM PST  
Attachments: image001.jpg, 307986\_Factors to consider for amendment\_EAO toTaseko\_OUTGOING\_SIGNED.docx.pdf

Please find attached correspondence from Associate Deputy Minister Kevin Jardine regarding the Prosperity Gold-Copper Project.

Regards,

**Kirsten Neilson** | Executive Administrative Assistant

Associate Deputy Minister's Office

Environmental Assessment Office

Phone: 250-356-7479

Email: [kirsten.neilson@gov.bc.ca](mailto:kirsten.neilson@gov.bc.ca)



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File: 30200-25/PROS-05-06

Reference: 307986

February 14, 2017

**VIA EMAIL AND POST**

Russ Hallbauer  
President & CEO  
Taseko Mines Limited  
15th Floor, 1040 West Georgia Street  
Vancouver BC V6E 4H1  
[RHallbauer@TasekoMines.com](mailto:RHallbauer@TasekoMines.com)

Dear Mr. Hallbauer:

I am writing further to Taseko's request that the Environmental Assessment Office (EAO) resume its review of the application by Taseko Mines Ltd (Taseko) to amend its Environmental Assessment Certificate (EAC) for the Prosperity Gold-Copper Project (Project) to reflect the changes proposed in its New Prosperity Project (proposed Amendment).

One issue to which the EAO had not responded prior to the federal government's decision on the New Prosperity project was Taseko's question as to the "test" that would be used to determine whether to issue Taseko's proposed Amendment. In a discussion on January 17, 2014 and follow up email (attached), Taseko put forward its view of the appropriate framework.

While Taseko has characterized this as a "test," it is, in my view, more appropriate to view them as relevant factors in making a decision on whether or not to grant the proposed Amendment; which, of course, may vary from project to project.

I am writing to you to make you aware of my current thinking regarding the relevant factors in this instance.

It is my current view that it is appropriate for the decision maker to be presented with information that would allow me, or the Minister, to understand:

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Environmental  
Assessment  
Office

Office of the  
Associate  
Deputy Minister

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
2<sup>nd</sup> Fl – 836 Yates St  
Victoria BC V8W 1L8

- Whether the Project, as amended, would have potentially significant adverse effects on Valued Components where the previous assessment indicated there to be no significant adverse effects;
- Whether the Project, as amended, would result in greater adverse effects than the Project as currently authorized (included in this, whether the previously identified significant adverse effect in the loss of Fish Lake is made less or more significant as a result of the proposed Amendment); and
- If there are greater, or new, significant adverse effects as a result of the proposed Amendment, what are the other impacts of the Project (including potential benefits) that would inform whether these effects may be justified.

Since the assessment of the proposed Amendment does not involve a reconsideration of the original Environment Assessment decision, I am currently of the view that there would be no need to reconsider other Project impacts, including benefits, if previously identified significant adverse effects are assessed to have been reduced or eliminated through the proposed Amendment.

Of course, in addition to these factors, the decision maker would also consider whether consultation has been carried out in good faith, the Crown's process of seeking to understand potentially outstanding issues and impacts was reasonable and whether or to what degree the potential for adverse effects on the Tsilhqot'in Nation's established or asserted Aboriginal rights, including title has been avoided, minimized or otherwise accommodated to an appropriate level.

While Taseko has already set out its views on this matter, as noted above, I am also seeking the views of the Tsilhqot'in National Government (TNG). In addition, I am providing the opportunity for both Taseko and the TNG to raise concerns or comments with respect to my initial view on this matter, so that I may take those into consideration before I reach a decision on the appropriate approach. To that end, I am seeking any comments from both TNG and Taseko within 3 weeks of the date of this letter. After considering any comments received, I will confirm my intended approach.

You may also expect to receive from the EAO in the very near future further correspondence regarding the EAO's views on potential next steps in the review of the proposed Amendment, including:

- Confirming the scope of Taseko's proposed Amendment;
- Use of information generated through the federal Panel process, and the EAO's assessment of the proposed Amendment;

...3

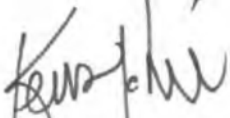
- The EAO's assessment of the Taseko's tailings alternatives assessment; and
- Additional considerations for the proposed Amendment review since the federal Panel review.

The EAO would be pleased to meet with Taseko to further discuss these matters.

In addition, the EAO will be pursuing discussions with the TNG regarding how the Amendment review procedures can address the EAO's commitments in the Nenqay Deni Accord.

If you have any questions or concerns, please feel free to contact me, or you can contact Shelley Murphy, Executive Project Director, at 250 387-1447, or by email at [Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca).

Very best regards,



Kevin Jardine  
Associate Deputy Minister

Attachment (1)

cc: John McManus, Chief Operating Officer, Taseko Mines Ltd.  
[JMcManus@tasekomines.com](mailto:JMcManus@tasekomines.com)

Shelley Murphy, Executive Project Director, Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

## Murphy, Shelley EAO:EX

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**From:** Caul, Doug D EAO:EX  
**Sent:** Monday, January 20, 2014 10:49 PM  
**To:** Murphy, Shelley EAO:EX; Carr, Michelle EAO:EX  
**Cc:** Jones, Christopher H JAG:EX  
**Subject:** Fwd: follow up to Friday meeting  
**Attachments:** image003.jpg; ATT00001.htm; ATT00002.htm; Correcting the Record-Overview.pdf; ATT00003.htm; 01\_17\_14 Letter to MOE from Taseko RE Characterization of evidence of Dr. Smith in Panel Report.pdf; ATT00004.htm

Passing along. I haven't read yet.

Begin forwarded message:

**From:** "John W. McManus" <[JMcManus@tasekomines.com](mailto:JMcManus@tasekomines.com)>  
**To:** "Caul, Doug D EAO:EX" <[Doug.Caul@gov.bc.ca](mailto:Doug.Caul@gov.bc.ca)>  
**Subject:** follow up to Friday meeting

Hi Doug,

Once again, thank you to you and the BCEAO staff for meeting with us on Friday afternoon. It was my takeaway from the meeting that we both learned something about how each other were approaching the certificate amendment. I certainly have understood that your approach is to be efficient and move the process along without unnecessary delay. I hope that we were clear that it is Taseko's intention to be cooperative with BCEAO in that endeavor.

One of the items that I became more clear on, although I might not completely get exactly what you are looking for, is BCEAO's need to understand Taseko's position on why we believe the project will perform as described in the EIS. As we discussed there may be information that you are seeking which either doesn't exist at all or doesn't exist in the format that you seek. As we discussed there is no new information above and beyond what is covered in the EIS and the related documents to the panel review. Attached are three documents which may provide clarification although Shelley said she had already seen the letters from November 8 and November 15 that are combined in the first attachment. Please let me know what else specifically you may be expecting. Shelley stated that she did not receive what she expected from Taseko but I never really understood what it was she expected.

On a second matter, and potentially of greater importance, was the matter of what is the test that should be applied by yourself and or the Minister in order to issue a certificate amendment. Our team has had quite a bit of further discussion and thought on this issue. It is our view that two ministers of the Crown have already determined that the original project proposal was likely to cause significant adverse effects but they were considered "justified" by elected officials and worthy of approval. So, rather than trying to determine whether or not the panel erred, or whether or not there is a significant environmental effect that arises from the revised project that requires an amended certificate, we think the decision maker consider the following questions:

1. Is the revised project likely to cause greater significant adverse environmental, social, economic, health or heritage effects than the project as previously approved (either in terms of nature of effects, or extent and degree of them)?

2. Is there any reason to believe that the benefits which caused the ministers to consider the original project to be justified would be less in respect of the revised project?

We believe that if the answers to question one and two are both no (we do), the certificate amendment should be issued on the basis that there is no reason to depart from or call into question the prior decision of ministers. If the answer to either question 1 or 2 is yes, then we believe consideration should move to this question:

3. Having regard to increases in the significance of environmental effects and or the reduction of benefits which originally caused the project to be considered justified, should ministers consider the project justified in the circumstance.

Finally, and also as discussed on Friday, Taseko is prepared to accept all of the panel's recommendations plus a couple of additional conditions that we included in our December letter to Shelley. We mentioned that it made sense for those to be addressed in permitting but if it would assist in expediting the issuance of an amended certificate we would certainly be prepared to have them added as conditions of the certificate. If there are other conditions that we aren't aware of we would certainly be prepared to discuss them.

Please feel free to share any and all of the above and your views on these matters with your federal colleagues. We believe that the more the federal government knows about the EAO's approach to the certificate amendment and pending provincial permitting, the greater confidence it will have that a positive federal decision statement can and should be issued in a timely manner.

Also please feel free to contact me if you would like to discuss any of the above or anything else.

Best regards,

John

John W. McManus P.Eng.  
Chief Operating Officer  
[cid:image003.jpg@01CF15F7.E46ABEA0]  
Taseko Mines Limited | 1040 - West Georgia, Suite 1500 Vancouver, BC V6E 4H1  
D 778-373-4552 T +1-778-373-4533 F +1-778-373-4534  
E [JMcManus@tasekomines.com](mailto:JMcManus@tasekomines.com) Web [tasekomines.com](http://tasekomines.com) <<http://tasekomines.com/>>

## Correspondence from Shelley Murphy, EAO

---

From: Cotten, Michael EAO:EX <Michael.Cotten@gov.bc.ca>  
To: RHallbauer@TasekoMines.com  
Cc: JMcManus@tasekomines.com, Stockman, Fern P EAO:EX  
<Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX  
<Shelley.Murphy@gov.bc.ca>  
Sent: March 3, 2017 9:32:10 AM PST  
Attachments: image001.jpg, Prosperity\_EAO response to Taseko\_March 3 2017.pdf

Dear Mr. Hallbauer,

Please see the attached correspondence sent on behalf of Shelley Murphy, Executive Project Director, Environmental Assessment Office.

Warm Regards,

Michael

*Michael Cotten* | Environmental Assessment Office | Telephone 250-387-2200





File: 30200-25/PROSPERITY-05-06

Reference: 308451

March 3, 2017

Russell E. Hallbauer  
President & CEO  
Taseko Mines Limited  
15th Floor, 1040 West Georgia Street  
Vancouver BC V6E 4H1  
[RHallbauer@TasekoMines.com](mailto:RHallbauer@TasekoMines.com)

Dear Mr. Hallbauer:

I am writing in response to Taseko Mines Limited's (Taseko) November 1, 2016 submission regarding the confirmation of the scope of Taseko's request to amend Environmental Assessment Certificate #M09-02 (Certificate) for the Prosperity Gold-Copper Project (Prosperity) and Taseko's updated tailings alternative assessment (TAA) for the project. This letter provides the Environmental Assessment Office's (EAO) proposed update to the November 2012 procedures for the EAO's assessment of the proposed amendment, and identifies the EAO's proposed next steps.

### **Scope of the amendment application**

The EAO will proceed with its assessment of the proposed amendment, focusing on those changes noted in your November 1, 2016 letter. In particular, the EAO's review will consider Taseko's request to:

- Change specific project elements, components and activities as listed in Appendix A;
- Add or alter mitigation measures as listed in Appendix B; and
- Make changes to management plans listed in Appendix C.

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**Environmental  
Assessment  
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Victoria BC V8W 9V1

Location:  
1<sup>st</sup> Fl-836 Yates Street  
Victoria BC V8W 1L8



Please note that prior to concluding the review of the proposed amendment, the EAO will require Taseko to provide a description of the works that comprise the proposed amendment as well as related maps consistent with the EAO's Environmental Assessment Certificate Policy, of which a draft was provided to Taseko on October 5, 2016. In compiling this information, Taseko may find it helpful to look at recent Certified Project Descriptions on the EAO's website (Giscome Quarry and Lime Plant and Baldy Ridge Extension are two recent examples). The EAO will use this to develop a draft Certified Amendment Description that will be provided as a part of the referral package for decision. If granted, this document would form Schedule A of the Certificate Amendment.

### **Use of the October 2013 federal review panel report and information produced for the federal review panel process**

In November 2012, the EAO set out procedures for review of the proposed amendment. The procedures were based on the EAO largely relying on the New Prosperity Project federal panel process including the federal panel report. Further, the panel's report was intended to be the main assessment document in the referral package to decision makers, and the EAO intended to only add additional information or assessment if required in the event the panel did not address an issue or potential effect important to the provincial review, or if the EAO did not consider a conclusion of the panel to be reasonable for the purposes of the provincial review of the proposed amendment.

Subsequent to the release of the federal panel report and the federal government decision, Taseko filed legal challenges on aspects of the panel report and process and the federal government's decision.

Given the current legal challenges, the EAO has considered whether and to what extent it will continue to use information from the panel process or report. The EAO considered several factors in coming to its proposed approach:

- All parties, including Taseko, Aboriginal groups, government agencies, and other participants put considerable time and resources in providing information to the federal panel process.
- If the EAO set aside the panel related information and asked those parties to provide submissions regarding Taseko's proposed amendment, it is likely those parties would produce the same submissions they did for the federal panel process.

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- Should Taseko or other parties have concerns about information provided to the panel, those concerns can be raised and addressed through the EAO's review of the proposed amendment; and
- Should a federal court determine that the panel erred in some way, the EAO expects that the error would likely be reflected in the panel's conclusions or recommendations, rather than the direct input of parties participating in the federal panel process.

Based on these considerations, the EAO is proposing that it will:

- Make use of the information submitted to the federal panel process, to the extent that the information relates to the proposed amendment; and
- Not rely on the federal panel report as the Amendment Assessment Report (Report) and instead the EAO will develop its own Report with the EAO's own conclusions and recommendations.

The EAO will make use of the panel's report to help the EAO identify key process steps undertaken, the issues raised in the submissions to the panel and participants who made submissions related to those issues, which will facilitate the EAO locating key documents relevant for the review of the proposed amendment.

### **Tailings Alternatives Assessment (TAA)**

The EAO has reviewed the 21-page "New Prosperity Tailings and Waste Management Review 2016" (Review) that was included in your letter of November 1, 2016. The Review presented Taseko's argument for the adequacy of its previous alternatives assessment, and added a description of possible technologies and related risks.

In light of the references to Taseko's previous assessment, the EAO reviewed the alternatives assessment in Taseko's September 2012 Environmental Impact Statement (EIS) and relevant responses to information requests (following the references contained in your letter of September 6, 2016), in conjunction with the Review document, to assess whether together the information addressed the EAO's TAA requirements in a manner that would allow substantive review by the technical Working Group (Aboriginal groups and government agencies) for the review of the proposed amendment.

The EAO's conclusions are as follows:

- It was very time consuming to try to piece together Taseko's assessment based on multiple documents, and it would be unreasonable and unproductive to ask the Working Group to undertake the same approach;
- The EAO was not able to find all the information required to satisfy the EAO's TAA requirements; and
- The Review did not demonstrate that Taseko considered the EAO's requirements to the level and depth required. The Review document includes broad conclusions that the previous alternatives assessment "is consistent with the guidance provided by the EAO," and provides several conclusions regarding the risk assessment (e.g. "The consequence is classified as 'insignificant'"). However, there is little or no information provided to support those conclusions.

The EAO recognizes that Taseko already has approval at the Environmental Assessment level for a conventional tailings storage facility (TSF), and that its amendment application seeks to relocate that facility to a particular location. I understand that Taseko may not be open to considering seeking an amendment for other alternative TSF locations.

On further consideration, the EAO is proposing a modified approach to the TAA that at a minimum ensures that Taseko has undertaken a TAA that:

- Provides a sound and well supported rationale/assessment to justify, after considering learnings from the Mount Polley incident, that the results of the review of the alternatives assessment through the federal panel, which resulted in the exclusion of other locations from further consideration, is still reasonable;
- Provides an assessment of how the TSF proposed in Taseko's amendment compares to the certified TSF using the framework set out in EAO's TAA requirements; and
- Demonstrates that Taseko has considered, and made appropriate changes to, the alternative proposed in light of the learnings from the Mount Polley TSF breach.

Therefore, in consideration of the above, the EAO requires that Taseko produce a stand-alone assessment that has a sufficient level of detail to meet the requirements set out by the EAO. Through the TAA, and consistent with the EAO's direction, Taseko must show it has adequately:

- Considered other options that can address the potential for adverse effects related to a potential a potential failure of the tailings storage facility (TSF);

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- For the project design option selected, considered the potential risks and implications of that option, and have a technically and economically feasible plan to address the potential risks and implications; and
- Provided a clear and transparent rationale for the selected option(s).

### **Assessment of the effects of Prosperity on moose**

During the EAO's 2014 review of Taseko's request to extend its Certificate, the EAO identified that there was information on the health of the regional moose population that differed from the information the EAO had at the time of its assessment of the Application for Certificate. While the local moose population was described as sustainable in the EAO's 2009 Assessment Report, recent provincial research shows that moose population densities declined between 1995 and 2012.

The EAO's Extension Assessment Report stated that the effect of the Project on moose would relate to impacts from the mine site as well as the access road, and creation of the transmission line, so it may not be fully canvassed through the review of the proposed amendment. However, the EAO noted that if the extension was granted, the EAO could consider whether additional or altered conditions were needed to address the broader effects and those could be proposed to the Minister using Section 37 of the *Environmental Assessment Act* (Act).

In order for the EAO to consider and appropriately consult Aboriginal Groups on this issue, the EAO requires Taseko to:

- Provide an assessment of how the Proponent's Commitments in the Certificate with respect to mitigations for potential effects on moose compares to the mitigations proposed by Taseko for the New Prosperity project;
- Explain whether and how the New Prosperity mitigations take into account the changed baseline conditions of the moose population as compared to the mitigations captured in Taseko's existing Certificate; and
- Indicate if Taseko proposes any additions or alterations to the mitigations proposed through the federal panel process in light of the change in the state of health of moose populations since the Certificate was granted.

As the EAO, the working group and Aboriginal groups further consider this issue, the EAO may have additional requirements for information from Taseko.

## Proposed Revised Amendment Procedures

As noted above, the EAO is proposing to continue to make use of the submissions to the federal panel, but complete its own Report rather than relying on the panel's report.

A key difference between the November 2012 amendment procedures and the proposed revised 2017 procedures is the referral package that EAO will prepare, as summarized in the table below.

Prosperity Certificate Amendment Referral Package	
November 2012 Procedures	Proposed Revised 2017 Procedures
<ul style="list-style-type: none"> <li>• The panel report;</li> <li>• If required, a summary of any supplementary material or information requested by the EAO for the assessment of the proposed amendments;</li> <li>• A description of the proposed amendments;</li> <li>• The potential amendment to the Certificate;</li> <li>• A First Nations consultation report;</li> <li>• The federal decision document;</li> <li>• Any submission provided by First Nations for the decision maker's consideration; and</li> <li>• A separate Decision Note, if necessary.</li> </ul>	<ul style="list-style-type: none"> <li>• An Amendment Assessment Report including: <ul style="list-style-type: none"> <li>○ description of the proposed amendment;</li> <li>○ assessment of Taseko's TAA;</li> <li>○ assessment of the proposed Amendment;</li> <li>○ any conditions recommended under s.37 of the Act;</li> <li>○ First Nations consultation report;</li> </ul> </li> <li>• Potential amendment to the Certificate; and</li> <li>• Any submission provided by First Nations for the decision maker's consideration.</li> </ul>

In developing its Report, the EAO proposes the following approach:

- Draft the Report so that it directly addresses the framework set out by the Executive Director, once finalized (see correspondence from Kevin Jardine, Associate Deputy Minister and Executive Director, dated February 14, 2017)
- Consider the following information in the EAO's assessment for its Report:
  - Taseko's request for an amendment set out in Taseko's November 1, 2016 letter to EAO;

...7

- Taseko's 2012 EIS, plus responses to information requests during the panel process;
- Submissions to the panel from Aboriginal groups, provincial, federal and local government representatives, general public and stakeholder groups;
- Comments and additional information received from Taseko, Tsilhqot'in National Government (TNG) and provincial agencies between November 2013 and February 2014;
- Taseko's TAA;
- Mitigation measures related to moose;
- The Provincial government's current information on asserted or established Aboriginal rights including title (Aboriginal Interests); and
- Additional comments and information provided from Taseko, Aboriginal groups and government agencies as the EAO completes its assessment.

The EAO proposes the following key steps in completing its assessment (not necessarily sequential; some steps may proceed in parallel):

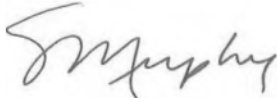
- The EAO finalizes the framework, after consultation with TNG and Taseko;
- The EAO finalizes the procedures, after consultation with TNG and Taseko;
- The EAO provides to the Working Group and Taseko key documents from the November 2013-Feb 2014 period to ensure everyone has relevant post-panel information (post panel documents);
- The EAO invites further comments on the proposed amendment and on the post panel documents;
- Taseko provides responses to comments in a tracking table and memorandum format, as required;
- Working Group review of the TAA;
- Working Group review and Aboriginal group consultation on moose mitigation information;
- Taseko responses to Working Group comments on TAA and moose mitigation, in tracking tables and memoranda as required;
- The EAO may ask questions to the Working Group as EAO reviews materials;

- Additional information requests to Taseko, responses (including tracking tables and memoranda) and meetings with the Working Group and/or Taseko as required to complete the assessment;
- The EAO produces a draft Report, draft potential conditions and amendment description, for review by the Working Group and Taseko;
- First Nations consultation report for development and review with Aboriginal groups; and
- The EAO finalizes its Report, proposed conditions and amendment description.

The EAO is seeking the views of Taseko and TNG regarding the EAO's proposed approach to use of the federal panel information as well as the revised amendment review procedures proposed. Please provide any comments you have by March 30, 2017. After considering comments received, the EAO may propose further changes for comment or may finalize its procedures.

Should Taseko wish to discuss any of the issues addressed in this letter, please contact me at 250 387-1447 or by email at [Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca) or Fern Stockman at 250 387-1624 or by email at [Fern.Stockman@gov.bc.ca](mailto:Fern.Stockman@gov.bc.ca).

Yours truly,



Shelley Murphy  
Executive Project Director

cc: John McManus, Chief Operating Officer, Taseko Mines Ltd.  
[JMcManus@tasekomines.com](mailto:JMcManus@tasekomines.com)

Fern Stockman, Project Assessment Manager, Environmental Assessment  
Office  
[Fern.Stockman@gov.bc.ca](mailto:Fern.Stockman@gov.bc.ca)

## **FW: TNG Response to EAO Proposed Procedures for Amendment Process**

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**From:** Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>  
**To:** Russell E. Hallbauer (RHallbauer@tasekomines.com) <RHallbauer@tasekomines.com>  
**Cc:** John W. McManus <JMcManus@tasekomines.com>, Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Conder, Geoffrey ENV:EX <Geoffrey.Conder@gov.bc.ca>, ysanchez@tasekomines.com, Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
**Sent:** April 20, 2017 1:35:53 PM PDT  
**Attachments:** 2017 04 13 JPL - SM re Proposed Amendment Process.pdf, 2017 04 13 Encl #2 - Taseko Memorandum of Fact and Law.pdf, 2017 04 13 Encl #4 - 2016\_BCAFN ResolutionTNGOppositiontoProvApprovalsRejectedNP Mine.pdf, image002.jpg, 2017 04 13 Encl #3 - UBCIC\_AGA09-21\_Resolution2016-49\_TNGNewProsperityMine.pdf, 2017 04 13 Encl #1 - TASEKO - Amended Notice of Application dated Feb 19, 2014.pdf

Good afternoon.

Thank you for your April 13, 2017 correspondence. Attached please find the correspondence we received from TNG.

We are considering the responses we received from both TNG and Taseko and will be responding further in due course.

Regards,

*Shelley Murphy*

Executive Project Director

250-387-1447

[shelley.murphy@gov.bc.ca](mailto:shelley.murphy@gov.bc.ca)



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**From:** J.P. Laplante [<mailto:jlaplante@tsilhqotin.ca>]

**Sent:** Thursday, April 13, 2017 4:24 PM

**To:** Murphy, Shelley EAO:EX

**Cc:** Stockman, Fern P EAO:EX

**Subject:** TNG Response to EAO Proposed Procedures for Amendment Process

Dear Shelley (cc Fern),

Please find attached TNG's response to the March 3, 2017 letter to Chief Alphonse outlining the EAO's proposed procedures for reviewing TML's amendment application.

Due to the size of the four enclosures attached to my letter, I'd appreciate confirmation of receipt.

Also, I acknowledge receipt of an email providing TML-EAO meeting notes sent by Fern Stockman yesterday, April 12. We have not yet had an opportunity to review those notes but will respond if necessary and after we've had the opportunity to review.

Thanks,

JP

J.P. Laplante

Mining, Oil and Gas Manager

Tsilhqot'in National Government

253 4<sup>th</sup> Ave North, Williams Lake BC V2G 4T4

Tel: 250-392-3918

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Email: [jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

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Web: [www.teztanbiny.ca](http://www.teztanbiny.ca)

Facebook: <https://www.facebook.com/Tsilhqotin-National-Government-367298296795473/>



## T̑SILHQOT'IN NATIONAL GOVERNMENT

253 – 4<sup>th</sup> Avenue North • Williams Lake, BC V2G 4T4 • Phone (250) 392-3918 • Fax (250) 398-5798

April 13, 2016

Environmental Assessment Office  
PO BOX 9426 STN PROV GOVT  
VICTORIA BC  
V8W9V1  
CANADA

**Attn: Shelley Murphy**  
Executive Project Director

via email: [shelley.murphy@gov.bc.ca](mailto:shelley.murphy@gov.bc.ca)

Dear Ms. Murphy:

I write in response to your letter of March 3, 2017 to Chief Alphonse,<sup>1</sup> requesting feedback on the Environmental Assessment Office's ("EAO") proposed procedures for reviewing Taseko Mines Limited's ("TML") application to amend its Environmental Assessment Certificate for the rejected Prosperity Mine.

In your letter, you note that the EAO established procedures for this amendment process in November 2012. Those procedures rely largely on the New Prosperity federal panel process. In particular, as you acknowledge, the report of the independent federal panel is "intended to be **the main assessment** document".<sup>2</sup>

As you know, the federal panel for New Prosperity delivered its report on October 31, 2013. In that report, the independent federal panel concluded that New Prosperity would result in several significant and immitigable environmental impacts, that Teztan Biny (Fish Lake) would not be preserved as a functioning ecosystem, and that TML had failed to show even "proof of concept".<sup>3</sup> The federal panel report strongly confirmed the position of the Tsilhqot'in Nation, including the devastating and unavoidable impacts of New Prosperity for the Tsilhqot'in people in an area of profound cultural and spiritual importance.

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<sup>1</sup> Your letter was copied to the Tsilhqot'in Chiefs. Please note that Chief Ervin Charleyboy is the elected Chief of Tsi Deldel First Nation, Chief Victor Roy Stump is the elected Chief of ?Esdilagh First Nation, and Gary Crowe is the Executive Director of the Tsilhqot'in National Government.

<sup>2</sup> Letter, S. Murphy to Chief Alphonse, March 3, 2017, p. 2 [emphasis added].

<sup>3</sup> *Report of the Federal Review Panel - New Prosperity Gold-Copper Mine Project* (October 31, 2013), p. 87.



The Federal Government accepted the findings of the federal panel and rejected the New Prosperity project on February 26, 2014.

Now, over *four years* after the EAO established its procedures for this review (relying on the federal panel report as the “main assessment document”), and over *three years* after the federal panel delivered its report (fully supporting the position of the Tsilhqot’in Nation), the EAO is proposing to amend its procedures so that it would *no longer rely* on the federal panel report. Instead, the EAO would prepare its own report with its own conclusions and recommendations.

This is truly remarkable. Not only is the EAO actively advancing a provincial approval process for a project that the Federal Government rejected three years ago—and that cannot be built as a result—the EAO now proposes to set aside the scathing report of an independent expert panel and draft its own EAO report instead.

It is hard to imagine a process that could be more damaging to the credibility and legitimacy of the EAO, and this amendment review, in the eyes of the Tsilhqot’in. As you may be aware, First Nations across the Province are also closely monitoring the conduct of the EAO in this process,<sup>4</sup> and they will be nothing short of alarmed by the about-face being contemplated by the EAO.

The Tsilhqot’in can hardly be expected to accept the EAO’s proposal to set aside an independent federal report that fully validates their position—the very report that the EAO said would be its *main* assessment document—so that the EAO can draft its own report with a blank slate.

The Tsilhqot’in National Government (“**TNG**”) disagrees fundamentally with the EAO’s proposed change to its procedures. For the reasons set out below, we strongly encourage the EAO to adopt a more principled approach to the amendment application.

### **Faulty Premise for the “Updated” Procedures**

First, the entire premise of the EAO’s proposed procedures is flawed.

In light of TML’s legal challenge to the federal panel report, the EAO proposes to rely on the *record* before the panel, but avoid relying on the *report* itself. The EAO reasons that if the Federal Court concludes that the panel erred in any way, the error will be in the report, rather than the record. In this way, the EAO seeks to reach conclusions and recommendations that will not be affected or called into question by the Federal Court’s judgment in TML’s litigation.

However, it is simply not possible for the EAO to avoid reaching conclusions on the same contested matters that are currently before the Federal Court. For example, the central

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<sup>4</sup> Find enclosed, Resolution no. 2016-49 from the Union of B.C. Indian Chiefs (September 23, 2016) and Resolution no. 14/2016 from the British Columbia Assembly of First Nations (October 25, 2016).

issue in TML’s judicial review of the panel report is TML’s allegation that the federal panel erred by relying on—and accepting—seepage rates from the Tailings Storage Facility as presented by Natural Resources Canada (“**NRCan**”) in its expert submissions.<sup>5</sup> TNG’s position (along with the Federal Government) is that the panel was entirely reasonable and correct in its reliance on NRCan’s estimates of tailings seepage.

If the EAO proceeds to draft its own report, it will have to make the same determination as the federal panel about whether and how to rely on the NRCan report and seepage estimates. The EAO cannot reach its own conclusions on anticipated seepage rates without addressing this expert evidence. However, this *very* issue is squarely before the Federal Court, which will affirm or set aside the panel’s conclusions on this issue—the EAO cannot avoid this controversy simply by ignoring the panel report.

Similarly, in its lawsuit, TML argues that the federal panel breached procedural fairness by relying on NRCan’s closing remarks. In TML’s submission, the federal panel should have disregarded what TML alleges was additional expert evidence tendered inappropriately in the final days of the hearings.<sup>6</sup> TNG (along with the Federal Government) takes the position that TML’s complaints are entirely baseless and that the panel was fully entitled to rely on NRCan’s closing submission.

Again, this is a fundamental disagreement about whether the federal panel was entitled to rely on this critical document presented by federal government experts. If the EAO proceeds to draft its own report, the EAO will have to decide whether and how to rely on this closing NRCan submission—a question squarely before the Federal Court in TML’s litigation.

These are just two examples. The basic point is that the EAO cannot avoid reaching conclusions and recommendations on matters that are subject to litigation simply by avoiding reliance on the panel report. The rationale for the EAO’s proposed procedures (*i.e.* not relying on the panel report to avoid the risk of errors that might be subsequently identified by the Federal Court) is flawed.

Further, as noted below, the EAO has considered only the risk that “a federal court determines that the panel *erred* in some way”.<sup>7</sup> The EAO does not mention the risk (or likelihood) that a federal court determines that the panel was *entirely correct*. It will certainly compromise the validity and credibility of the EAO’s own conclusions to the extent that they contradict the conclusions of an independent expert panel as reviewed and upheld by the Federal Court.

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<sup>5</sup> See TML’s Amended Notice of Application, paras. 9-11 (enclosed); TML’s Memorandum of Fact & Law, paras. 1, 12-23, 28-62 (enclosed).

<sup>6</sup> See TML’s Amended Notice of Application, para. 14(a)-(c) (enclosed); TML’s Memorandum of Fact & Law, paras. 70-91 (enclosed).

<sup>7</sup> Letter, S. Murphy to Chief Alphonse, March 3, 2017, p. 2 [emphasis added].

## Additional Relevant Factors

In your letter, you state that “[t]he EAO considered several factors in coming to its proposed approach”.<sup>8</sup> However, in addition to relying on erroneous factors (as described above), the EAO failed to consider a number of directly relevant factors, *e.g.*:

- The panel report was produced by an independent panel with considerable expertise and, for this reason, is entitled to considerable deference—the panel’s conclusions should not be lightly set aside or disregarded;
- In defending its amendment procedures to the TNG in June 2012, the EAO assured the TNG that reliance on the federal panel report for the provincial amendment process “goes a fair way to addressing TNG’s desire to have the project reviewed independently”<sup>9</sup>—now, some five years later, the EAO proposes to remove even that assurance;
- Amending the EAO’s procedures, over four years after they were established, to disregard the federal panel report that was intended to be the main assessment document, would severely prejudice the Tsilhqot’in Nation, directly contradict previous EAO commitments describing reliance on the panel report as supporting the independence of the process, and unlawfully breach the legitimate expectations of the Tsilhqot’in Nation;
- There is no indication that the EAO staff tasked with preparing an EAO report would possess anything comparable to the expertise of the federal panel members in this case, and certainly not the same public perception of independence;
- Unlike the federal panel, the EAO staff did not attend the public hearings and did not have the opportunity to ask questions of presenters to address issues of concern;
- The EAO is simply in no position (and should not be put in the position) to reach different conclusions than an independent expert panel that directly presided over a multi-year assessment process;
- For the above reasons, the conclusions and findings of the EAO in its own assessment report would lack any credibility or validity to the extent that they depart from the conclusions of the independent, expert panel;
- Further, as discussed above, the EAO cannot avoid making determinations on matters that are squarely before the Federal Court, raising the very real risk

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<sup>8</sup> Letter, S. Murphy to Chief Alphonse, March 3, 2017, p. 2.

<sup>9</sup> Letter, S. Murphy to Chief Alphonse and Chief Baptiste (June 28, 2012), p. 6.

that the EAO's conclusions on key issues could contradict the findings of the independent federal panel as confirmed and upheld by the Federal Court; and

- It seems highly unlikely that the EAO would finalize its own report before the Federal Court delivers judgment in TML's judicial reviews, which were argued over a month ago and currently pending decision.

For all of the above reasons, we strongly encourage the EAO to reconsider its proposed "update" to its amendment review procedures.

Nothing less than the integrity of the EAO is at stake. The EAO already has almost no credibility in Tsilhqot'in Territory. In our view, the legitimacy and integrity of the EAO would be damaged beyond all repair if the EAO were to proceed in this manner: *i.e.* actively taking steps to approve a project that the Federal Government has rejected, amending its own procedures to set aside and disregard the scathing conclusions of the federal panel, and then substituting its *own* in-house report in place of that of the independent, expert panel that actually conducted the public review process.

Such a process—and its outcome—would lack any credibility in the eyes of the Tsilhqot'in people and the general public, and further tarnish the reputation of the EAO.

### **Closing Remarks**

In light of the above considerations, we reiterate our request that the EAO defer further active steps in the amendment review until:

- TML's legal challenges are complete;
- the fairness and accuracy of the record that the EAO intends to rely on is established (one way or the other); and
- it is known whether New Prosperity can even proceed, in light of the federal rejection.

If the EAO nonetheless insists on actively advancing the amendment review at this time, then the established review procedures should govern, the EAO should continue to rely on the federal panel report as the main assessment document, and the findings and conclusions of the federal panel should be respected—unless and until the Federal Court decides otherwise. It would be unfair, prejudicial and in breach of legitimate expectations for the EAO to disregard the federal panel report based on nothing more than unproven allegations by TML.

In our view, the EAO can and should put an election to TML. The company can defer further steps in the amendment review until its litigation is complete and the validity of the panel report and supporting record is conclusively determined. Or, TML can actively

proceed with the amendment application while its court challenges remain unresolved, but in that case the EAO will continue to rely on the panel report as the main assessment document, and the findings and conclusions of the federal panel will be respected.

I trust this makes our position clear. Please contact me if I can answer any questions about this position or assist in any way.

Sincerely,



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**J.P. Laplante**

TNG Mining, Oil and Gas Manager

cc. *Tsilhqot'in Chiefs*  
*Gary Crowe (TNG Executive Director)*

encl. *TML Notice of Application*  
*TML Memorandum of Fact & Law*  
*Resolution from the Union of B.C. Indian Chiefs (September 23, 2016)*  
*Resolution from the British Columbia Assembly of First Nations (October 25, 2016)*

## **MEMORANDUM OF FACT AND LAW OF THE APPLICANT (T-1977-13)**

1. This is an application for judicial review by Taseko Mines Limited (“Taseko”) of a Review Panel Report (the “Report”) made pursuant to the *Canadian Environmental Assessment Act, 2012* (“CEAA 2012”) in respect of the New Prosperity Gold-Copper Mine Project (the “Project”). Three central and related findings of the Report as to water seepage and water quality impacts are unreasonable and should be set aside. The Panel made a blatant error in accepting an inapt comparison of evidence provided by Taseko and by Natural Resources Canada (“NRCan”) regarding differing seepage estimates from the proposed tailings storage facility. The Panel adopted NRCan’s evidence that erroneously compared the seepage estimates (filed by NRCan in a procedurally unfair manner after evidence in the Panel hearings had closed) and found that Taseko had materially underestimated seepage. This error underpinned the Panel’s related finding that water quality in Fish Lake and Wasp Lake would be significantly adversely affected by the Project. Because of these central errors in the Report the impugned findings should be set aside.

### **PART I – FACTS:**

2. The Project is a \$1.5 billion open pit gold and copper mine proposed by Taseko, approximately 125 km southwest of Williams Lake, British Columbia. The Project is expected to provide 550 direct jobs, 1280 indirect jobs and an annual contribution of \$340 million to the provincial GDP.<sup>1</sup>

3. The Project is the subject of the second such federal environmental assessment for the mine; the first, entitled Prosperity, was also subject to a federal review panel under the former *Canadian Environmental Assessment Act*. In July 2010, the review panel for Prosperity concluded that Prosperity would result in significant adverse environmental effects, and in November 2010, the Governor in Council accepted those conclusions and determined that the significant adverse environmental effects

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<sup>1</sup> The Report at vii-viii (Aff. #3 of McManus, ex. A1 at 11-12) [AR 4, p.743-44].

could not be justified. Taseko was invited to submit a new project proposal that addressed the factors considered by the review panel for Prosperity.<sup>2</sup>

4. Taseko revised its design and submitted the new Project for review. “The most important change was the preservation of Fish Lake (Teztan Biny) and portions of its tributaries.”<sup>3</sup> While Prosperity would have drained Fish Lake, the new design proposed in the Project kept Fish Lake intact by relocating the tailings storage facility (the “TSF”)<sup>4</sup> 2.5 km upstream from Fish Lake and introducing a lake recirculation water management scheme.<sup>5</sup>

5. On November 7, 2011, then Minister of the Environment, the Honourable Peter Kent, announced that the Project would undergo a federal environmental assessment by way of a Federal Review Panel (the “Panel”) established under the *Canadian Environmental Assessment Act*. With the promulgation of *CEAA 2012*, the Panel assessment proceeded under that Act.<sup>6</sup>

6. On August 3, 2012, Amended Terms of Reference were issued to the Panel to reflect the new provisions of *CEAA 2012*. Pursuant to the Amended Terms of Reference, the Panel was required to “conduct an assessment of the environmental effects of the Project” and consider a series of factors in its assessment of the Project, including:

- (a) the environmental effects of the Project including the environmental effects of malfunctions or accidents that may occur in connection with the Project and any cumulative environmental effects that are likely to result from the Project in combination with other projects or activities that have been or will be carried out;

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<sup>2</sup> The Report at vii (Aff. #3 of McManus, ex. A1 at 11) [AR 4, p.743].

<sup>3</sup> The Report at vii (Aff. #3 of McManus, ex. A1 at 11) [AR 4, p.743].

<sup>4</sup> The TSF is designed to hold the tailings, waste rock (excavated rock that does not contain enough metals to process), and supernatant water from the Project. CEAR 129 (Aff. #3 of McManus, ex. C5 at 8765) [AR 50, p.9997]. No TSF is “water-tight”, and the water that escapes is “seepage”. Aff. #1 of Clarke at para 41 [AR 71, p.16177]. See also aff. #3 of McManus, ex. F6 at 13633 [AR 69, p.14132] (“In any [TSF] some seepage is normal – in fact it is an integral part of the design of a TSF”).

<sup>5</sup> The Report at vii (Aff. #3 of McManus, ex. A1 at 11) [AR 4, p.743].

<sup>6</sup> The Report at 2 (Aff. #3 of McManus, ex. A1 at 18) [AR 4, p.750].

- (b) the significance of the environmental effects referred to in the above paragraph; ... [and]
- (d) measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the Project ....<sup>7</sup>

7. On September 27, 2012, Taseko submitted its Environmental Impact Statement (the “EIS”) to the Panel.<sup>8</sup>

8. On February 20, 2013, the Panel issued its final Public Hearing Procedures, which were “designed to allow input and participation by the public and Interested Parties in a fair and equitable manner.”<sup>9</sup> The Public Hearing Procedures set out a number of requirements with respect to the conduct of the Public Hearings, and also set out specific requirements for the Panel’s topic-specific hearing sessions. The purpose of those sessions was “to provide an opportunity for experts who possess specialized knowledge or expertise to present to the Panel the results of their technical review of the potential effects of the proposed project,” and “to allow an opportunity to assess the technical aspects of the project.”<sup>10</sup>

9. On June 20, 2013, the Panel determined that the EIS and supplementary information provided by Taseko was sufficient for the environmental assessment to proceed to public hearings (the “Public Hearings”).<sup>11</sup>

10. The Public Hearings commenced on July 22, 2013 and concluded with final oral arguments on August 23, 2013. The technical, topic-specific hearing sessions were held from July 25 to August 1, 2013.<sup>12</sup>

11. On July 19, 2013, NRCan provided a written submission to the Panel. In that submission it described its role in the environmental assessment as follows:

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<sup>7</sup> Canadian Environmental Assessment Registry Document Number (“CEAR”) 124 (Aff. #3 of McManus, ex. A3 at 333-34) [AR 6, p.1065-66].

<sup>8</sup> The Report at ix (Aff. #3 of McManus, ex. A1 at 13) [AR 4, p.745].

<sup>9</sup> CEAR 377 (Aff. #3 of McManus, ex. A5 at 348) [AR 6, p.1080].

<sup>10</sup> CEAR 377 (Aff. #3 of McManus, ex. A5 at 357) [AR 6, p.1089].

<sup>11</sup> The Report at ix (Aff. #3 of McManus, ex. A1 at 13) [AR 4, p.745].

<sup>12</sup> The Report at 7, 290-91 (Aff. #3 of McManus, ex. A1 at 23, 306-07) [AR 4, 6, p.755, 1038-39].



Natural Resources Canada (NRCan) is participating as a federal authority in the Federal Review Panel's (the Panel) assessment of the New Prosperity Gold-Copper Project (the Project), providing specialist and expert information and knowledge within the meaning of s.20 of the *Canadian Environmental Assessment Act, 2012*....

This final submission is a follow-up to the Panel's June 21, 2013 request to participate in the public hearings. The Panel requested that NRCan present its technical review of the potential environmental effects of the Project and to provide information and its recommendations as they relate to the department's expertise and mandate. NRCan has provided expertise for this review from the Earth Sciences and Minerals and Metals Sectors of NRCan in the areas of hydrogeology, geology, geochemistry, geotechnical science and seismicity.<sup>13</sup>

12. In the section of its written submission dated July 2013 on hydrogeology, NRCan asserted that its estimate of seepage leaving the TSF was "more than an order of magnitude greater" than Taseko's estimate: "Seepage from the TSF was estimated at 8650 m<sup>3</sup>/d (100 L/s) which is more than an order of magnitude greater than the proponent's 3D model prediction [of 9 L/s]."<sup>14</sup>

13. During the technical, topic-specific sessions at which experts dealt specifically with seepage estimates, however, NRCan retreated from that position.

14. On July 26, 2013, for example, NRCan's expert, Dr. Alexandre Desbarats, acknowledged that Taseko's estimate of total seepage from the TSF was actually 70 L/s (6048 m<sup>3</sup>/d), not 9 L/s (760 m<sup>3</sup>/d):

Using two different modelling approaches the Proponent has assembled an estimate of total seepage from the tailings storage facility.

Their 2-D model, the cross-sectional model yielded an estimate of what they referred to as embankment seepage of 55 litres-per-second. Using the 3-D model the Proponent estimated seepage through the base of the TSF in what they called basin seepage at 15 litres-per-second. Taseko calculates a total seepage by summing these two fluxes and comes up with a number of 70 litres-per-second.<sup>15</sup>

<sup>13</sup> CEAR 648 (Aff. #1 of McManus, ex. J11 at 13453) [AR 74, p.15671].

<sup>14</sup> CEAR 648 (Aff. #1 of McManus, ex. J11 at 13471) [AR 74, P.15689].

<sup>15</sup> CEAR 773 (Aff. #3 of McManus, ex. B5 at 1511) [AR 11, p.2243] [emphasis added].

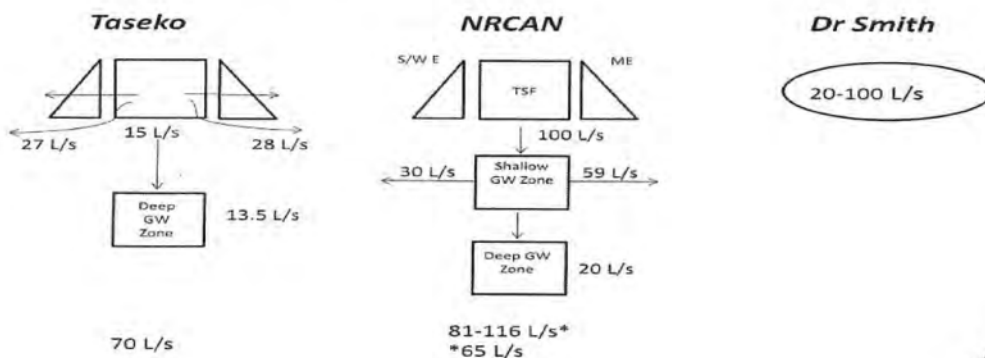
15. Later in that session, Dr. Desbarats abandoned the “order of magnitude” comparison:

MR. CROZIER: .... I guess the question that I'm asking is, you've come out and stated there's a factor of 10 difference or a factor of 11 difference between your seepage estimates from the base than in and the BCG [sic] model estimates for the base, which when compared the way you've compared it, that's true. If you were to look at our hydraulic conductivity case, which probably is a more representative value, that factor goes from 10 to three. When you consider the seepage analysis done by Knight Piesold in terms of the total exiting the facility that factor is no longer 11, that factor is on the order of two-and-a-half; correct? If you look at it in simple terms like that?

DR. DESBARATS: Well, I was basing my comparison on Taseko's best guess. This is what's put forward by the Proponent in the EIS as the post closure base case estimate seepage through the base of the impoundment and that is what I was comparing to my base case. I'm simply stating the result. That's what I get.

With respect to the Knight Piesold results, yeah, here would be less than twice actually.<sup>16</sup>

16. On July 27, 2013, Taseko presented its closing remarks to the geology and hydrogeology topic-specific session. At that session, Taseko submitted a diagram that correctly summarized the seepage estimates of NRCAN and Taseko, both in total and broken down through each of the three seepage flux pathways (the “Seepage Chart”). The Seepage Chart also set out the estimate of total seepage provided by the independent expert engaged by the Panel, Dr. Leslie Smith:<sup>17</sup>



<sup>16</sup> CEAR 773 (Aff. #3 of McManus, ex. B5 at 1590-91) [AR 12, p. 2322-23] [emphasis added].

<sup>17</sup> CEAR 771 (Aff. #3 of Smyth, ex. H at 433) [AR 4, p.689].

17. The Seepage Chart accurately reflected the total TSF seepage estimates of Taseko, NRCan, and Dr. Smith: Taseko estimated 70 L/s (as Dr. Desbarats had admitted the day before), NRCan estimated 81-116 L/s (in line with its written submission of July 19, 2013), and Dr. Smith estimated 20-100 L/s.

18. By July 29, 2013, Dr. Desbarats admitted when questioned directly by the Panel that the difference between NRCan's and Taseko's seepage estimates (81-116 L/s vs. 70 L/s) were within a factor of two, not eleven, and the Panel appeared to have understood this fact:

CHAIRPERSON ROSS: .... Before we continue with the questioning of Taseko, the Panel has a question that it would like to pose and Taseko has indicated again today about the comparison of seepage predictions that it makes and Natural Resources Canada has made.

The Panel has some residual confusion and we would like to try to seek some greater clarity on that.

With that in mind -- because we note that Dr. Desbarats is in the audience, we would like to ask him to provide any further assistance he can to the Panel regarding the comparative predictions of seepage. Dr. Desbarats?

DR. DESBARATS: Thank you, Mr. Chairman.

NRCan's submission and my presentation make a factual comparison of the modelling results that I developed and Taseko's modelling results. So I believe the facts are there for you to assess.

Now, Taseko's comment that they believe that their modelling predictions are essentially equivalent to mine, I do not believe is correct.

CHAIRPERSON ROSS: Could you perhaps indicate what the differences would be that would help us better to understand?

DR. DESBARATS: Well, I think Taseko's position is really based on their 2-D modelling results, if I've understood correctly, where they -- for example, their total seepage rate through the base of the TSF is somewhat more -- well, maybe 60 percent of NRCan's base case value.

However, I did point out that they are 2-D modelling results did not include any seepage into the deep groundwater zone, and that, in my model, amounts to a significant flux of about 1600 cubic metres per day.

So really their 2-D modelling -- it's difficult to compare the two because they had boundary conditions that precluded any flow to the deep groundwater zone.

But their number is within a factor of two of NRCan's number. NRCan's base case number.

CHAIRPERSON ROSS: Thank you. In that case, thank you for that. That's helpful. Thank you, sir.<sup>18</sup>

19. Despite this admission, on August 21, 2013 – the last day of the Public Hearings before final oral submissions and three weeks after the technical, topic-specific sessions had ended<sup>19</sup> – NRCan submitted to the Panel its “Closing Remark[s] and the Technical Memorandum.”

20. The unsigned Technical Memorandum, which was actually authored by Dr. Desbarats,<sup>20</sup> restated NRCan’s erroneous “order of magnitude” comparison:

NRCan’s base-case estimate of seepage through the bottom of the TSF is 8650 m<sup>3</sup>/d [100 L/s] whereas the proponent’s comparable estimate, based on their 3D numerical model, is 760 m<sup>3</sup>/d [9 L/s]. Thus, NRCan’s estimate is greater than the proponent’s by more than an order of magnitude.<sup>21</sup>

21. On October 31, 2013, following the conclusion of the Public Hearings, the Panel issued the Report.

22. In the Report, the Panel found that TSF seepage “represents the largest potential source of contaminant loadings that could affect the water quality of Fish Lake (Teztan Biny) and the other lakes, creeks and rivers in the Project area.”<sup>22</sup>

23. The Panel then explicitly adopted NRCan’s “order of magnitude” comparison from the Technical Memorandum, concluded that Taseko had underestimated the volume of TSF seepage, and accepted NRCan’s estimate of TSF seepage:

The Panel has determined that Taseko has underestimated the volume of tailings pore water seepage leaving the tailings storage facility and the rate at

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<sup>18</sup> CEAR 781 (Aff. #3 of McManus, ex. B7 at 2052-54) [AR 15, p.3031-33] [emphasis added].

<sup>19</sup> The Report at 290-91 (Aff. #3 of McManus, ex. A1 at 306-07) [AR 6, p.1038-39].

<sup>20</sup> Cross-examination of Clarke at 6, lines 21-24 [AR 85, p.17789].

<sup>21</sup> CEAR 1123 (Aff. #3 of McManus, ex. J14 at 13633) [AR 75, p. 15851].

<sup>22</sup> The Report at 63 (Aff. #3 of McManus, ex. A1 at 79) [AR 5, p.811].

which the water plume would reach the various lakes and streams downslope of the tailings storage facility, even with the mitigations proposed.

The Panel accepts Natural Resources Canada's upper bound estimate as the expected seepage rate from the tailings storage facility (see Table 5 above).

**The Panel concludes that there is strong evidence that the seepage from the tailings storage facility would be significantly higher than estimated by Taseko, resulting in potentially higher loading of contaminants in the receiving environment.**<sup>23</sup>

(the "TSF Seepage Finding")

24. Based on the above, the Panel then found significant adverse environmental effects were likely in respect of, among other things, water quality in Fish Lake and Wasp Lake:

The Panel also notes that the seepage from the tailings storage facility expected by Natural Resources Canada is considerably greater than estimated by Taseko. On balance, the Panel concludes, as did most presenters on this subject, that there would be higher concentrations of water quality contaminants of concern in Fish Lake than modelled by Taseko....

The Panel concludes that the concentration of water quality variables in Fish Lake (Teztan Biny) would be considerably larger than Taseko's predictions. If so, then concentrations of contaminants of concern also would exceed the provincial and federal water quality guidelines. In accordance with guidance provided in the Agency's *Reference Guide: Determining Whether a Project is Likely to Cause Significant Adverse Environmental Effects*, and adopted by the Panel, this result would be a likely significant adverse effect....

**The Panel concludes that the Project would result in a significant adverse environmental effect on water quality in Fish Lake (Teztan Biny)....**

**The Panel concludes that pore water seepage from the tailings pond would have a significant adverse effect on water quality in Wasp Lake.**<sup>24</sup>

(the "Water Quality Finding").

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<sup>23</sup> The Report at page 60, 64 (Aff. #3 of McManus, ex. A1 at 76, 80) [AR 5, p.808, 812] [emphasis in original].

<sup>24</sup> The Report at 86-88 (Aff. #3 of McManus, ex. A1, 102-04) [AR 5, p.834-36]; see also the Report at 253 (Aff. #3 of McManus, ex. A1 at 269) [AR 6, p.1001].

**PART II – POINTS IN ISSUE:**

25. There are four points in issue, namely:

- (a) Was the Panel's determination that Taseko underestimated the volume of tailings pore water seepage leaving the TSF unreasonable?<sup>25</sup>
- (b) Was the Panel's decision to accept NRCan's upper bound estimate as the expected seepage rate from the TSF unreasonable?<sup>26</sup>
- (c) Was the Panel's conclusion that the concentration of water quality variables in Fish Lake and Wasp Lake would likely be a significant adverse environmental effect unreasonable?<sup>27</sup>
- (d) Did the Panel fail to observe principles of procedural fairness in its conduct of the Public Hearings, specifically by accepting and relying upon the Technical Memorandum without giving Taseko a fair opportunity to respond?

**PART III – SUBMISSIONS:**

26. The standard of review for the Panel's findings of fact and questions of mixed fact and law is reasonableness: "In summary, issues raised by the Applicants which challenge the exercise of discretion or assessment of evidence attract a reasonableness standard of review."<sup>28</sup>

27. On the other hand, "questions of procedural fairness are to be assessed on the standard of correctness."<sup>29</sup>

**(1) The Panel's determination that Taseko had underestimated TSF seepage was unreasonable**

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<sup>25</sup> The Report at page 64 (Aff. #3 of McManus, ex. A1 at 80) [AR 5, p.812].

<sup>26</sup> The Report at page 64 (Aff. #3 of McManus, ex. A1 at 80) [AR 5, p.812].

<sup>27</sup> The Report at 87-88 (Aff. #3 of McManus, ex. A1 at 103-04) [AR 5, p.835-36].

<sup>28</sup> *Greenpeace Canada v. Canada (Attorney General)*, 2014 FC 1124 at para 37, aff'd 2016 FCA 114; see also *Greenpeace Canada v. Canada (Attorney General)*, 2016 FCA 114 at para 56; *Ontario Power Generation Inc. v. Greenpeace Canada*, 2015 FCA 186 at paras 35-36, 122; *Federal Courts Act*, RSC 1985, c F-7, s 18.1(4).

<sup>29</sup> *Grand Riverkeeper, Labrador Inc. v. Canada (Attorney General)*, 2012 FC 1520 at para 42; see also *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12 at paras 43, 79, 83; *C.U.P.E. v Ontario (Minister of Labour)*, 2003 SCC 29 at para 100; *Arsenault v. Canada (Attorney General)*, 2016 FCA 179 at para 33; *Air Canada v. Greenglass*, 2014 FCA 288 at para 26.



28. There are two distinct aspects to the TSF Seepage Finding. The first is the finding that Taseko underestimated the volume of tailings pore water seepage that would leave the TSF:

The Panel has determined that Taseko has underestimated the volume of tailings pore water seepage leaving the tailings storage facility and the rate at which the water plume would reach the various lakes and streams downslope of the tailings storage facility, even with the mitigations proposed....

**The Panel concludes that there is strong evidence that the seepage from the tailings storage facility would be significantly higher than estimated by Taseko, resulting in potentially higher loading of contaminants in the receiving environment.**<sup>30</sup>

29. This finding is unreasonable because the Panel had misapprehended Taseko's estimation of TSF seepage. The Panel relied on the Technical Memorandum and compared one small component of Taseko's TSF seepage estimate against the total seepage estimate of NRCan. In short, the Panel made an apples-to-oranges comparison that was manifestly unreasonable. This is evident on the very face of the Report by comparing Table 3 of the Report against Table 5.<sup>31</sup>

30. Table 3 of the Report accurately represents Taseko's seepage estimates – that a total of 70 L/s would leave the TSF.<sup>32</sup>

**Table 3. Overall seepage recovery estimates**

	<b>Total Seepage (L/s)</b>	<b>Recovered Seepage (L/s) (Mitigation)</b>	<b>Unrecovered Seepage (L/s)</b>
<b>Main Embankment</b>	28.1	18.3 (Embankment depressurization wells) 4.9 (Interception wells) <u>3.6</u> (Pump-back wells) 26.8	2.40
<b>South Embankment</b>	23.9	19.8 (Embankment depressurization wells and Interception wells)	4.5
<b>West Embankment</b>	3.0	2.5 (Embankment depressurization wells)	0.68
<b>Basin Seepage-Deep Groundwater</b>	15.0		13.5
<b>TOTAL (% of total)</b>	70.0 (100%)	≈49.0 (70%)	≈ 21.0 (30 %)

<sup>30</sup> The Report at 64 (Aff. #3 of McManus, ex. A1 at 80) [AR 5, p.812] [underlining emphasis added].

<sup>31</sup> The Report at 56, 60 (Aff. #3 of McManus, ex. A1 at 72, 76) [AR 5, p.804, 08].

<sup>32</sup> The Report at 56 (Aff. #3 of McManus, ex. A1 at 72) [AR 5, p.804].

31. Taseko's total seepage estimate, reflected in Table 3, is comprised of following components:

- (a) 28.1 L/s through the Main Embankment;
- (b) 23.9 L/s through the South Embankment;
- (c) 3.0 L/s through the West Embankment; and
- (d) 15.0 L/s through Basin Seepage-Deep Groundwater<sup>33</sup>

32. At Table 5 of the Report, however, in summarizing NRCan's comparison taken directly from the Technical Memorandum, the Panel completely disregards its own Table 3 summary of Taseko's estimates.<sup>34</sup> While the numbers for the embankment seepage remain consistent (28 L/s through the Main Embankment, 27 L/s through South and West Embankment), Taseko's deep basin seepage estimate drops from 15 L/s to 0 L/s:<sup>35</sup>

**Table 5. Comparison of Seepage Estimates taken from the August 21, 2013, Natural Resources Canada Technical Memorandum to the Panel**

	<b>Taseko estimates (based on two different models)</b>	<b>Natural Resources Canada base case, based on its 3-D model</b>
<b>Post Closure seepage through bottom of the tailings storage facility</b>	9 L/s (760 m <sup>3</sup> /d) From 3-D model	100 L/s (8650 m <sup>3</sup> /d)
<b>Main Embankment seepage (towards Fish Lake)</b>	28 L/s (2420 m <sup>3</sup> /d) From 2-D model	58 L/s (5087 m <sup>3</sup> /d)
<b>South and West Embankment seepage</b>	27 L/s (2333 m <sup>3</sup> /d) From 2-D model	29 L/s (2552 m <sup>3</sup> /d)
<b>Deep basin seepage (greater than 200 mbgs)</b>	0 L/s (Natural Resources Canada claims Taseko's 2D model precludes this flux component)	20 L/s (1699 m <sup>3</sup> /d)

<sup>33</sup> The Report at 56 (Aff. #3 of McManus, ex. A1 at 72) [AR 5, p.804]; see also cross-examination of Clarke at 18, lines 2-5 [AR 85, p.17801] ("I wouldn't have any reason to disagree that those numbers [column 1 of Table 3] are the ones that Taseko reported in its two reports, the Knight Piesold report, the report on preliminary design, and the BGC report").

<sup>34</sup> CEAR 1123 (Aff. #3 of McManus, ex. J14 at 13633) [AR 75, p.15851].

<sup>35</sup> The Report at 60 (Aff. #3 of McManus, ex. A1 at 76) [AR 5, p.808] [highlights added].



33. More importantly, in the first row of Table 5, where the Panel states it is comparing “[p]ost closure seepage through [the] bottom of the” TSF, the Panel actually makes an apples-to-oranges comparison: Taseko’s 9 L/s estimate is for post closure seepage through the bottom of the TSF,<sup>36</sup> but NRCan’s 100 L/s estimate is for the total seepage leaving the TSF.<sup>37</sup> Unlike the numbers in the Taseko column, the numbers in the bottom three rows of NRCan’s side of Table 5 are not independent from the number in the top row.<sup>38</sup>

34. As John Clarke, the director of the environmental assessment division at NRCan, explained in his cross-examination:

Q Reconfirming the 100 litres is the total outflow forecast. And then below that are figures 58, 29 and 20, reporting to different areas. Can you tell me, would that be a breakout of the 100 or is that in addition to 100?

A It is not in addition to the 100. It’s not quite fair to say it’s a breakout of the 100 because the NRCan model, of course, accounts for groundwater. There is a certain upstream component to the groundwater as well, too, so that’s why the numbers 58, 29, 20 –

Q 107?

A -- don’t add to 100. You have to account for the – you know, natural flow of groundwater.<sup>39</sup>

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<sup>36</sup> The Report at page 53 (Aff. #3 of McManus, ex. A1 at 69) [AR 5, p.801].

<sup>37</sup> The Report at 60 (Aff. #3 of McManus, ex. A1 at 76) [AR 5, p.808].

<sup>38</sup> The Report indicates the Panel did not understand this fact -- that NRCan’s total estimate of 100 L/s included the 20 L/s in deep basin seepage. In its summary of Table 5, the Panel observed that:

As indicated in the above table, pore water seepage from the tailings storage facility basin was estimated by Natural Resources Canada to be 100 L/s (8 650 m<sup>3</sup>/d) which was more than an order of magnitude greater than what it considered to be Taseko’s comparative prediction of 9 L/s. The Natural Resources Canada model showed that a further 20 L/s (1 699 m<sup>3</sup>/d) of seepage was predicted to flow to the deep groundwater zone beneath the basalt flows that underlie the tailings storage facility.

The Report at 60 (Aff. #3 of McManus, ex. A1 at 76) [AR 5, 808] [emphasis added]

<sup>39</sup> Cross-examination of Clarke at 23, lines 17-30 [AR 85, p.17806] [emphasis added]. See also aff. #1 of Clarke at para 85(a) [AR 77, p.16198].

35. The same is obviously not true on Taseko's side of Table 5: it is an immutable mathematical fact that 28 L/s plus 27 L/s cannot equal 9 L/s.<sup>40</sup>

36. Despite this obvious miscalculation, the Panel relied on Table 5 – without acknowledging NRCan's error in the Technical Memorandum – to observe that “pore water seepage” from the bottom of the TSF was estimated by NRCan to be 100 L/s, “which was more than an order of magnitude greater than what it considered to be Taseko's comparative prediction of 9 L/s.”<sup>41</sup>

37. To be an apples-to-apples comparison the comparison should have been 70 L/s vs. 100 L/s, not 9 L/s vs. 100 L/s, and Table 5 should have read as follows (changes highlighted):

	<b>Taseko estimates (based on two different models)</b>	<b>NRCan's base case, based on its 3-D model</b>
<b>Total seepage from TSF</b> <del>Post-closure seepage through bottom of the TSF</del>	70 L/s <del>9 L/s</del>	100 L/s
<b>Main Embankment seepage (towards Fish Lake)</b>	28 L/s	58 L/s
<b>South and West Embankment seepage</b>	27 L/s	29 L/s
<b>Deep basin seepage (greater than 200 mbgs)</b>	15 L/s <del>0 L/s</del>	20 L/s

38. With Table 5 corrected, it is apparent that there were no actual significant differences in the estimates of total seepage, and certainly no difference even remotely approaching “an order of magnitude”. As Dr. Desbarats had acknowledged

<sup>40</sup> Leaving aside the fact that it is actually 28 L/s plus 27 L/s plus 15 L/s (deep basin seepage).

<sup>41</sup> The Report at 60, 64 (Aff. #3 of McManus, ex. A1 at 76, 80) [AR 5, p.808, 12].

during the topic-specific sessions, Taseko's total TSF seepage estimate was "within a factor of two of NRCan's number, NRCan's base case number."<sup>42</sup>

39. Compounding the error, the Panel then adopted NRCan's incorrect comparison to support the conclusion that Taseko had severely underestimated seepage from the TSF:

The Panel accepts Natural Resources Canada's upper bound estimate as the expected seepage rate from the tailings storage facility (see Table 5 above).

**The Panel concludes that there is strong evidence that the seepage from the tailings storage facility would be significantly higher than estimated by Taseko, resulting in potentially higher loading of contaminants in the receiving environment....**

The Panel also notes that the seepage from the tailings storage facility expected by Natural Resources Canada is considerably greater than estimated by Taseko. On balance, the Panel concludes, as did most presenters on this subject, that there would be higher concentrations of water quality contaminants of concern in Fish Lake than modelled by Taseko.<sup>43</sup>

40. The Panel reached this conclusion despite the fact it had acknowledged – accurately – that Taseko's actual seepage estimates (a total of 70 L/s) had been reached through accepted practice: "Dr. Leslie Smith, an independent expert retained by the Panel, stated that in his opinion the framework used by Taseko to evaluate seepage of process (pore) water from the tailings storage facility followed accepted practice."<sup>44</sup>

41. In these circumstances, in accepting NRCan's false assertion that its seepage estimate was "more than an order of magnitude greater" than Taseko's comparative prediction,<sup>45</sup> the TSF Seepage Finding is an obvious error on the face of the Report and is manifestly unreasonable. It is "an erroneous finding of fact" made "without regard for the material before" the Panel.<sup>46</sup>

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<sup>42</sup> CEAR 781 (Aff. #3 of McManus, ex. B7 at 2054) [AR 15, p.3033].

<sup>43</sup> The Report at 64, 86 (Aff. #3 of McManus, ex. A1 at 80, 102) [underlining emphasis added] [AR 5, p.812, 34].

<sup>44</sup> The Report at 60 (Aff. #3 of McManus, ex. A1 at 76) [AR 5, p.808].

<sup>45</sup> The Report at 60 (Aff. #3 of McManus, ex. A1 at 76) [AR 5, p.808].

<sup>46</sup> *Federal Courts Act*, s 18.1(4)(d).

42. The recognition of this blatant and central error in the Report does not require that this court function as an “academy of science” or a “legislative upper chamber”.<sup>47</sup> The impugned finding fails the test of justifiability, transparency, and intelligibility. It is unreasonable<sup>48</sup> and should be set aside.<sup>49</sup>

**(2) The Panel’s decision to accept NRCan’s upper bound estimate as the expected seepage rate was unreasonable**

43. The second aspect of the TSF Seepage Finding is the Panel’s acceptance of NRCan’s “upper bound estimate as the expected seepage rate from the tailings storage facility (see Table 5 above).” This finding is unreasonable for two reasons:

- (a) it relies directly upon the erroneous conclusion that Taseko severely underestimated TSF seepage; and
- (b) it accepts NRCan’s model even though it is materially different than the actual design of the TSF proposed by Taseko.

*(a) Reliance upon finding that Taseko severely underestimated TSF seepage*

44. A fundamental error with the Panel’s acceptance of NRCan’s TSF seepage estimate is that it relies directly upon the first flaw with the TSF Seepage Finding discussed above – the finding that Taseko significantly underestimated TSF seepage.

45. The Report contains no discussion of the merits of NRCan’s TSF seepage estimates, nor does it include reasons explaining why the Panel accepted NRCan’s upper bound estimate. The only logical conclusion is that the Panel accepted NRCan’s estimate because it mistakenly believed Taseko had significantly underestimated TSF seepage:

The Panel has determined that Taseko has underestimated the volume of tailings pore water seepage leaving the tailings storage facility and the rate at

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<sup>47</sup> *Greenpeace Canada v. Canada (Attorney General)*, 2016 FCA 114 at paras 61-63.

<sup>48</sup> The reasonableness of the Panel’s decision is to be assessed on the basis of the reasons given, and not other reasons drawn from the record which may be proffered in support of the decision. See *Kenyon v. BC (Supt of Motor Vehicles)*, 2015 BCCA 485 at paras 33-42.

<sup>49</sup> See *Greenpeace Canada*, 2016 FCA 114 at para 59 (following *Dunsmuir v. New Brunswick*, 2008 SCC 9).

which the water plume would reach the various lakes and streams downslope of the tailings storage facility, even with the mitigations proposed.

The Panel accepts Natural Resources Canada's upper bound estimate as the expected seepage rate from the tailings storage facility (see Table 5 above).<sup>50</sup>

46. This inference becomes explicit in the discussion leading up to the Water Quality Finding:

The Panel concludes that the concentration of water quality variables in Fish Lake (Teztan Biny) would be considerably larger than Taseko's predictions. If so, then concentrations of contaminants of concern also would exceed the provincial and federal water quality guidelines.<sup>51</sup>

47. The "potentially higher loading of contaminants in the receiving environment" referred to in the TSF Seepage Finding was a relative, not absolute, outcome that depended entirely on the faulty comparison between NRCan's and Taseko's seepage estimates. The Panel mistakenly – and unreasonably – concluded that it had to accept NRCan's model because it had discounted Taseko's estimates.<sup>52</sup> Having never made an actual apples-to-apples comparison of the different seepage estimates, the Panel was in no position to accept NRCan's model over Taseko's.

*(b) Panel's assessment inconsistent with actual design of the TSF*

48. Moreover, the Panel should not have accepted NRCan's seepage estimates because the model used by NRCan to arrive at its estimates was materially different from the actual design of the TSF as proposed by Taseko.

49. The most significant difference between NRCan's model and that of Taseko is that NRCan's model did not take seepage mitigation into account.<sup>53</sup> Despite this, in reaching the TSF Seepage Finding the Panel stated:

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<sup>50</sup> The Report at 64 (Aff. #3 of McManus, ex. A1 at 80) [AR 5, p.812].

<sup>51</sup> The Report at 86 (Aff. #3 of McManus, ex. A1 at 102) [AR 5, p.834] [emphasis added].

<sup>52</sup> The Report at 64 (Aff. #3 of McManus, ex. A1 at 80) [AR 5, p.812].

<sup>53</sup> Cross-examination of Clarke at 20-21, lines 44-1 [AR 85, p.17803-04]:

Q Now, can I also assume that NRCan's calculations for seepage and potential impact on groundwater do not take into account any recapture of seepage?

The Panel has determined that Taseko has underestimated the volume of tailings pore water seepage leaving the tailings storage facility and the rate at which the water plume would reach the various lakes and streams downslope of the tailings storage facility, even with the mitigations proposed.<sup>54</sup>

50. In Table 3 the Panel accurately reproduced “Taseko’s overall seepage recovery estimates, with mitigation ...”, acknowledging that Taseko estimated that 49 L/s of the 70 L/s in total seepage that would leave the TSF (70%) would be recovered through various mitigation measures (embankment depressurization wells, interception wells, and pump-back wells), with the result that only 21 L/s of seepage would be unrecovered.<sup>55</sup>

51. The Panel also accurately observed that its independent expert, Dr. Smith, considered Taseko’s recovery estimates to be “conservative”, and “that a realistic target may be 80% to 90% capture efficiency for solutes passing beyond the embankments.” The Panel explicitly recognized Dr. Smith’s opinion “that the seepage mitigation measures proposed by Taseko had the potential to substantially reduce the volume of seepage, but not eliminate seepage from entering Fish Lake (Teztan Biny), Wasp Lake and the Onion Lakes.”<sup>56</sup>

52. While the Panel reported both NRCan and the British Columbia’s Ministry of Energy and Mines having expressed some hesitation regarding Taseko’s proposed mitigation measures, neither refuted Taseko or Dr. Smith’s analysis:

Natural Resources Canada and Dr. Watterson stated that Taseko’s overall estimate of its seepage mitigation efficiency rate of 93% for embankment seepage was overly optimistic given the highly heterogeneous nature of overburden units beneath the tailings storage facility and the potential for rapid contaminant transport along preferential groundwater flow paths that might bypass the interception wells.

Taseko responded by stating that it had clarified that the efficiency rate was in fact 70% rather than 93%....

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A That’s correct. What NRCan modelled was seepage coming from the tailings storage facility.

<sup>54</sup> The Report at 64 (Aff. #3 of McManus, ex. A1 at 80) [AR 5, p.812] [emphasis added].

<sup>55</sup> The Report at 55-56 (Aff. #3 of McManus, ex. A1 at 71-72) [AR 5, p.803-04].

<sup>56</sup> The Report at 62-63 (Aff. #3 of McManus, ex. A1 at 78-79) [AR 5, p.810-11].



Natural Resources Canada also expressed uncertainty as to whether Taseko's seepage mitigation measures could handle such a flux. In particular, Natural Resources Canada stated that it was unclear if Taseko's analysis of interception well requirements, which were based on its 3D groundwater flow model, remained applicable....

The Ministry of Energy and Mines went on to state that the groundwater capture system proposed in the EIS was conceptual and that it was difficult, based on the information provided, to assess the effectiveness of the groundwater pumping / mitigation system to protect water quality in Fish Lake (Teztan Biny) and the Fish Lake tributaries.<sup>57</sup>

53. Despite this evidence, the Panel included no findings whatsoever with respect to seepage mitigation or recovery in section 5.3.1.3 of the Report (setting out the Panel's conclusions and recommendations with respect to seepage from the TSF). The Panel simply stated Taseko's predictions as to mitigation and unrecovered seepage and concluded, without analysis, that Taseko had underestimated TSF seepage, "even with the mitigations proposed."<sup>58</sup>

54. The Panel did not address seepage mitigation in any other substantive section of the Report.<sup>59</sup> In fact, in the water quality section the Panel explicitly observed that modeling had not taken seepage mitigation measures into account, despite the fact that such measures would be effective: "Water quality predictions were modeled in the absence of mitigation measures such as collecting and pumping back seepage from the tailings storage facility or active water treatment. The Panel notes that the

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<sup>57</sup> The Report at 57-58, 60, 63 (Aff. #3 of McManus, ex. A1 at 73-74, 76, 79) [AR 5, p.805-06, 08, 11].

<sup>58</sup> The Panel inaccurately adopted in the executive summary of the Report a conclusion with respect to seepage mitigation that it did not actually make: "Although the seepage mitigation measures proposed by Taseko have the potential to substantially reduce the volume of seepage, the Panel concludes it would not eliminate seepage from entering Fish Lake (Teztan Biny)." This was Dr. Smith's opinion, but the Panel had not actually adopted it in the Report. The Report at x, 62, 83 (Aff. #3 of McManus, ex. A1 at 14, 78, 99) [AR 4-5, p.746, 810, 831].

<sup>59</sup> It is important to differentiate between seepage mitigation (e.g., seepage collection ponds) and water treatment (e.g., the proposed recirculation scheme), which aims to deal with, among other things, unrecovered seepage. See Aff. #1 of Clarke at para 41 [AR 77, p.16177]. The Report addressed water treatment; it did not address seepage mitigation. See the Report at 86-87 (Aff. #3 of McManus, ex. A1 at 102-03) [AR 5, p.834-35].

concentration of metals in Fish Lake (Teztan Biny) would be reduced by the collection and pump back wells.”<sup>60</sup>

55. By not addressing TSF seepage mitigation in the Report, the Panel breached both section 43(1)(d)(i) of *CEAA 2012*<sup>61</sup> and section 2.2(d) of the Amended Terms of Reference.<sup>62</sup>

56. Having not made any findings with respect to TSF seepage mitigation the Panel made the TSF Seepage Finding, accepting NRCan’s upper bound estimate as the expected seepage rate from the TSF even though NRCan’s model did not account for any seepage recovery. The Panel also concluded, without any evidentiary support or reasoning, “that Taseko has underestimated the volume of tailings pore water seepage leaving the [TSF] ... even with the mitigations proposed.”<sup>63</sup>

57. The Panel discounted Taseko’s (and Dr. Smith’s) seepage recovery measures and attendant estimates, which was a fundamental part of the design of the TSF, without any analysis or explanation as to why.

58. This error bears some similarity to the decision made in *Bow Valley Naturalists Society v. Alberta (Minister of Environmental Protection)*. In that case, the decision-maker came to a conclusion “in the total absence of information to counter that adduced by the applicants and the government’s own experts.” Accordingly, Justice

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<sup>60</sup> The Report at 86 (Aff. #3 of McManus, ex. A1 at 102) [emphasis added] [AR 5, p.834].

<sup>61</sup> “A review panel must, in accordance with its terms of reference ... prepare a report with respect to the environmental assessment that sets out ... the review panel’s rationale, conclusions and recommendations, including any mitigation measures ....” [emphasis added]

<sup>62</sup> “The assessment by the Panel shall include a consideration of the following factors ... measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the Project ....” CEAR 124 (Aff. #3 of McManus, ex. A3 at 333) [AR 6, p.1065].

<sup>63</sup> The Report at 64 (Aff. #3 of McManus, ex. A1 at 80) [AR 5, p.812] [emphasis added]



Kenny held that it was patently unreasonable for the decision-maker “to conclude as he did in the face of the uncontradicted evidence which he possessed.”<sup>64</sup>

59. In addition to not accounting for seepage mitigation, there were three other inconsistencies with NRCan’s model as compared to the TSF actually proposed by Taseko:

- (a) the NRCan model assumed no seepage through the TSF embankments;<sup>65</sup>
- (b) the NRCan model assumed there would be no augmentation of the till layer;<sup>66</sup> and
- (c) the NRCan model was not calibrated to reflect real world conditions.<sup>67</sup>

60. These inconsistencies between the proposed TSF and NRCan’s model underpin the differences between Taseko and NRCan’s total seepage estimates (70 L/s vs. 100 L/s), and the Panel acknowledged that its independent expert, Dr. Smith, had arrived at this very conclusion:

When commenting on the difference between Taseko’s and Natural Resources Canada’s modelling, Dr. Smith stated that the principal explanation for the differences in seepage estimates produced by the two models was likely the different values of hydraulic conductivity (tailings, till, shallow bedrock) used plus the different thickness of the till layers for the valley flanks. He also noted that Natural Resources Canada hydraulic conductivity estimates for till and basalt were not calibrated to the hydraulic head data set and stream flow data.

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<sup>64</sup> *Bow Valley Naturalists Society v. Alberta (Minister of Environmental Protection)*, 1995 CanLII 9230 (ABQB) at paras 59, 61; see also *Canadian Union of Postal Workers v. Healy*, 2003 FCA 380 at para 25 (“once it has been established that a tribunal’s decision was based on a material finding of fact supported by no evidence, the decision will be set aside”).

<sup>65</sup> CEAR 773 (Aff. #3 of McManus, ex. B5 at 1595, 97) [AR 12, p.2327, 29] (Dr. Desbarats acknowledging that NRCan model has no flow boundaries for the embankments, unlike TSF proposed by Taseko in EIS).

<sup>66</sup> The Report at 59 (Aff. #3 of McManus, ex. A1 at 75) [AR 5, p.807] (comparison of Taseko versus NRCan’s characterization of till layer).

<sup>67</sup> CEAR 773 (Aff. #3 of McManus, ex. B5 at 1584-85) [AR 12, p.2316-17] (Dr. Desbarats acknowledging that “a failing or a limitation” of the NRCan model is that it is not calibrated).

61. The Panel was aware that NRCan's model was based on assumptions that were not consistent with the design of the TSF that had actually been proposed by Taseko in the EIS. In these circumstances the Panel's acceptance of NRCan's seepage estimates was unreasonable as it "based its decision ... on an erroneous finding of fact that it made in a perverse or capricious manner."<sup>68</sup> The Panel "willfully [went] contrary to the evidence" before it.<sup>69</sup>

62. The Panel's error in this regard breached the Amended Terms of Reference, which required that the Panel "conduct an assessment of the environmental effects of the Project."<sup>70</sup> The project the Panel actually assessed – NRCan's version of the project – was materially different than the actual design of the TSF proposed by Taseko in that it failed to account for seepage mitigation, seepage through the TSF embankments, augmentation of the till layer, or calibration.

**(3) The Panel's conclusion that the concentration of water quality variables in Fish Lake and Wasp Lake would likely be a significant adverse environmental effect was unreasonable**

63. The TSF Seepage Finding – that Taseko underestimated TSF seepage and that NRCan's estimates were correct – would permeate the Report. At section 6.5 of the Report, for example, in the subsection entitled, "Water Quality: Fish Lake", the Panel relied upon the TSF Seepage Finding:

The Panel also notes that the seepage from the tailings storage facility expected by Natural Resources Canada is considerably greater than estimated by Taseko. On balance, the Panel concludes, as did most presenters on this subject, that there would be higher concentrations of water quality contaminants of concern in Fish Lake than modelled by Taseko.<sup>71</sup>

64. This directly led to the Water Quality Finding – the Panel's conclusion that the Project would result in a significant adverse environmental effect on water quality in Fish Lake and Wasp Lake:

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<sup>68</sup> *Federal Courts Act*, s 18.1(4)(d).

<sup>69</sup> *R.S. v. Canada (Citizenship and Immigration)*, 2012 FC 860 at para 18 (quoting *Rohm & Haas Canada Limited v Canada (Anti-Dumping Tribunal)*, [1978] FCJ No 522, 22 NR 175 at para 6).

<sup>70</sup> CEAR 124 (Aff. #3 of McManus, ex. A3 at 333) [AR 6, p.1065] [emphasis added].

<sup>71</sup> The Report at 86 (Aff. #3 of McManus, ex. A1 at 102) [AR 5, p.834].

The Panel concludes that the concentration of water quality variables in Fish Lake (Teztan Biny) would be considerably larger than Taseko's predictions. If so, then concentrations of contaminants of concern also would exceed the provincial and federal water quality guidelines. In accordance with guidance provided in the Agency's *Reference Guide: Determining Whether a Project is Likely to Cause Significant Adverse Environmental Effects*, and adopted by the Panel, this result would be a likely significant adverse effect....

**The Panel concludes that the Project would result in a significant adverse environmental effect on water quality in Fish Lake (Teztan Biny)....**

**The Panel concludes that pore water seepage from the tailings pond would have a significant adverse effect on water quality in Wasp Lake.<sup>72</sup>**

65. The Water Quality Finding cannot stand because of its reliance upon the TSF Seepage Finding. It, too, is unreasonable for that reason.

66. Both the TSF Seepage Finding and the Water Quality Finding begin with the mistaken premise that Taseko had severely underestimated TSF seepage. As the Panel found, seepage and water quality are inextricably linked:

### **5.3 SEEPAGE FROM THE TAILINGS STORAGE FACILITY ....**

Seepage of tailings pore water from the tailings storage facility, as noted by Natural Resources Canada, represents the largest potential source of contaminant loadings that could affect the water quality in Fish Lake (Teztan Biny) and the other lakes, creeks and rivers in the Project area....

The Panel has determined that Taseko has underestimated the volume of tailings pore water seepage leaving the tailings storage facility and the rate at which the water plume would reach the various lakes and streams downslope of the tailings storage facility, even with the mitigations proposed....

**The Panel concludes that there is strong evidence that the seepage from the tailings storage facility would be significantly higher than estimated by Taseko, resulting in potentially higher loading of contaminants in the receiving environment....**

### **6.4 WATER TREATMENT AND ADAPTIVE MANAGEMENT ....**

The Panel also notes that the seepage from the tailings storage facility expected by Natural Resources Canada is considerably greater than estimated by Taseko. On balance, the Panel concludes, as did most presenters on this

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<sup>72</sup> The Report at 86-88 (Aff. #3 of McManus, ex. A1 at 102-04) [AR 5, p.834-36] [emphasis in original]

subject, that there would be higher concentrations of water quality contaminants of concern in Fish Lake than modelled by Taseko...

The Panel concludes that the concentration of water quality variables in Fish Lake (Teztan Biny) would be considerably larger than Taseko's predictions. If so, then concentrations of contaminants of concern also would exceed the provincial and federal water quality guidelines. In accordance with guidance provided in the Agency's *Reference Guide: Determining Whether a Project is Likely to Cause Significant Adverse Environmental Effects*, and adopted by the Panel, this result would be a likely significant adverse effect....

**The Panel concludes that the Project would result in a significant adverse environmental effect on water quality in Fish Lake (Teztan Biny)....**

**The Panel concludes that pore water seepage from the tailings pond would have a significant adverse effect on water quality in Wasp Lake.**<sup>73</sup>

67. In short, all three substantive errors at issue in the Report can be traced back to the Panel's misapprehension of Taseko's TSF seepage estimates (the erroneous TSF Seepage Finding). The error underpinned the Panel's conclusions that: (1) Taseko significantly underestimated TSF seepage; (2) NRCan's upper bound estimate of TSF seepage was to be accepted; and (3) the concentration of water quality variables in Fish Lake and Wasp Lake would likely be a significant adverse environmental effect.

68. The Panel's errors satisfy the "three conditions that must be met before a reviewing court can interfere with a tribunal's decision."<sup>74</sup> First, the TSF Seepage Finding is based on "an erroneous finding of fact" – Taseko's actual TSF seepage estimate was 70 L/s, not 9 L/s. Second, the error was "made in a capricious manner without regard to the materials before it"; a comparison of Table 3 and Table 5 shows that the Panel was aware of Taseko's actual seepage estimate, but chose to disregard it in favour of NRCan's inaccurate comparison. Lastly, the Panel's conclusion that the Project would result in significant adverse environmental effects on water quality in Fish Lake and Wasp Lake was "based on this erroneous finding[]." <sup>75</sup>

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<sup>73</sup> The Report at 52, 63-64, 80, 86-88 (Aff. #3 of McManus, ex. A1 at 68, 79-80, 96, 102-04) [AR 4-5, p.800, 07, 11-12, 28, 34-36] [underlining emphasis added].

<sup>74</sup> *Gravelle v. Canada (Attorney General)*, 2015 FC 1175 at para 39.

<sup>75</sup> *Gravelle v. Canada (Attorney General)*, 2015 FC 1175 at para 39; see also *Ontario Power Generation Inc. v. Greenpeace Canada*, 2015 FCA 186 at para. 122; *Federal Courts Act*, s. 18.1(4).

69. Additionally, these errors resulted in a breach of the Amended Terms of Reference, which required that the Panel consider “the environmental effects of the Project” and “the significance” of those effects.<sup>76</sup> The Water Quality Finding was not a reasonable finding in that regard.

#### **Procedural Fairness: the Technical Memorandum**

70. The substantive errors in the Report identified above resulted in part from a failure in the Panel process: the late acceptance of the Technical Memorandum.

71. The Public Hearing Procedures set out the requirements for the conduct of the Public Hearings, including that:

2.7 If a participant files an expert report as part of its submission, then that participant must arrange to have the expert available to answer questions as part of the hearing when the submission is presented....

2.18 Closing remarks must not be used to present new information but should summarize the Interested Party’s perspective on the hearing record and recommendations to the Panel.<sup>77</sup>

72. The Public Hearing Procedure also set out specific requirements for the technical topic-specific hearing sessions, including that:

3.6 Interested Parties who wish to file a written submission only must advise the Panel in writing that they will not be presenting at the hearing and file the written submission seven (7) days in advance of the start of the Topic-Specific hearing sessions.

3.7 All oral presentations must be accompanied by a written submission. Presenters must file their written submission with the Panel Secretariat at least seven (7) days in advance of the Topic-Specific session in which they plan to present. This will allow the Panel and others participating in the review to consider submissions prior to the start of the session. Oral presentation only will not be permitted for the Topic-Specific hearing sessions.<sup>78</sup>

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<sup>76</sup> CEAR 124 (Aff. #3 of McManus, ex. A3 at 333) [AR 6, p.1065] [emphasis added].

<sup>77</sup> CEAR 377 (Aff. #3 of McManus, ex. A5 at 350-51) [AR 6, p.1082-83].

<sup>78</sup> CEAR 377 (Aff. #3 of McManus, ex. A5 at 357-58) [AR 6, p.1089-90].



73. Despite the Public Hearing Procedures, the Panel frequently permitted opponents of the Project to deviate from these requirements over Taseko's objections.<sup>79</sup>

74. The unsigned Technical Memorandum included evidence regarding seepage estimated and, in certain instances, made factual errors that Taseko did not have a fair opportunity to test and correct through cross-examination,<sup>80</sup> including the following:

NRCan's base-case estimate of seepage through the bottom of the TSF is 8650 m<sup>3</sup>/d whereas the proponent's comparable estimate, based on their 3D numerical model, is 760 m<sup>3</sup>/d. Thus, NRCan's estimate is greater than the proponent's by more than an order of magnitude.<sup>81</sup>

75. As discussed above, this erroneous evidence was explicitly adopted by the Panel in the Report.<sup>82</sup>

76. The Technical Memorandum was not submitted during the technical topic-specific sessions, but was instead made on the last day of the Public Hearings before closing remarks, on a day when 37 submissions were filed on the Project registry, and at a time when Taseko's own experts had no opportunity to question the author or provide technical submissions in response. This was in breach of section 2.18 of the Public Hearing Procedures, which required that closing remarks not be used to present "new information". The Technical Memorandum was new information, retreating from NRCan's acknowledgement on July 29, 2013 that Taseko's seepage estimates were within a factor of two, not a factor of eleven.<sup>83</sup>

77. NRCan itself acknowledged that the Technical Memorandum went beyond summarizing NRCan's perspective:

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<sup>79</sup> See, e.g., CEAR 858, 860, 947, 960, 1036, 1067 (Aff. #3 of McManus, exs. H1-H6) [AR 73, p.15455-15483] (Panel granting late requests for confidentiality and accepting late filing of submissions over Taseko's objections); see also aff. #3 of McManus, ex. B9 at 268-271 [AR 19, p.3855-58].

<sup>80</sup> Taseko observed in its closing remarks that: "While we had thought there was a convergence of views on seepage predictions between Natural Resources Canada ("NRCan") and Environment Canada on these issues during the hearing we have recently – somewhat surprisingly – seen those agencies say they remain of different views." CEAR 1151 (Aff. #3 of McManus, ex. F6 at 12328) [AR 69, p.14132].

<sup>81</sup> CEAR 1123 (Aff. #3 of McManus, ex. J14 at 13633) [AR 75, p.15851].

<sup>82</sup> See the Report at 60, 64 (Aff. #3 of McManus, ex. A1 at 76, 80) [AR 5, p.808, 12].

<sup>83</sup> CEAR 781 (Aff. #3 of McManus, ex. B7 at 2052-54) [AR 15, p.3031-33].

In addition, we have attached below for your consideration, a technical memorandum that provides further clarification related to the modeling approaches taken by Taseko and NRCan which have been recently referred to [in] Registry documents CEAR #641 and CEAR #787....

This memorandum more fully addresses the Panel's request for clarification by contrasting NRCan and Taseko seepage estimates and the numerical methods by which they were obtained.<sup>84</sup>

78. The Panel agreed with this characterization of the Technical Memorandum in its Report: "In a subsequent technical memorandum to the Panel, Natural Resources Canada clarified its opinion regarding the breadth of disagreement that remained between the parties with respect to seepage estimates and the numerical methods by which they were obtained."<sup>85</sup>

79. The Public Hearing Procedures did not allow for new evidence of a technical nature to be made in a party's closing remarks. That was to be covered during the topic-specific hearing sessions, when the applicant would have the opportunity to cross-examine on this material:

3.2 The overall purpose of the Topic-Specific hearing sessions is to provide an opportunity for experts who possess specialized knowledge or expertise to present to the Panel the results of their technical review of the potential effects of the proposed project. The sessions are also designed to allow an opportunity to assess the technical aspects of the project.<sup>86</sup>

80. The topic-specific hearing sessions ended on August 1, three weeks before the Technical Memorandum was submitted.<sup>87</sup>

81. While other parties applied to file late technical reports, leading to submissions and decisions from the Panel with respect to those late filings,<sup>88</sup> no application was made by NRCan to file the Technical Memorandum. The Panel simply accepted it.

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<sup>84</sup> CEAR 1123 (Aff. #3 of McManus, ex. J14 at 13632-33) [emphasis added] [AR 75, p.15850-51].

<sup>85</sup> The Report at 59 (Aff. #3 of McManus, ex. A1 at 75) [emphasis added] [AR 5, p.807].

<sup>86</sup> CEAR 377 (Aff. #3 of McManus, ex. A5 at 357) [AR 6, p.1089].

<sup>87</sup> The Report at 290-91 (Aff. #3 of McManus, ex. A1 at 306-07) [AR 6, p.1038-39].

<sup>88</sup> See, e.g., CEAR 858, 860, 947 (Aff. #3 of McManus, exs. H1-H3) [AR 73, p.15455-15475] (TNG application to file late archeological report; Taseko's objection; Panel acceptance of late report).

82. Worse, the Panel ended up placing great reliance on the Technical Memorandum in the Report, leading directly to the TSF Seepage Finding and the Water Quality Finding, discussed above.<sup>89</sup>

83. The duty of procedural fairness is “flexible and variable” in the sense that its content in any given case depends on the particular legislative and administrative context. Among the factors that may be considered when defining the content of a duty of procedural fairness are “the nature of the decision”, “the nature of the statutory scheme” and “the importance of the decision to the individual or individuals affected.”<sup>90</sup>

84. The “nature of the decision” refers to its position on the spectrum between judicial or quasi-judicial decisions, where trial-like levels of procedural fairness will apply, and policy-driven decisions, where the duty of procedural fairness is attenuated. In preparing the Report, the Panel was exercising the essentially judicial function of making findings of fact.<sup>91</sup>

85. A higher degree of procedural fairness is required when the statutory scheme lacks an appeal mechanism. *CEAA 2012* lacks any formal mechanism for an appeal from the Report.<sup>92</sup>

86. The Report was of considerable importance to Taseko: it played a role in the decision making process of the Minister and GIC under section 52 of *CEAA 2012*.

87. Given these factors, the Panel owed Taseko a high degree of procedural fairness.

88. The Panel’s acceptance of the Technical Memorandum after the deadline contravened the principle of *audi alteram partem* and breached the Panel’s duty of procedural fairness to Taseko. *Audi alteram partem* is breached when the decision

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<sup>89</sup> See the Report at 60, 64 (Aff. #3 of McManus, ex. A1 at 76, 80) [AR 5, p.808, 12].

<sup>90</sup> *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at para 22.

<sup>91</sup> *Baker* at para 23.

<sup>92</sup> *Baker* at para 24.



maker is provided with new evidence favourable to one party, and the other party is not given a fair opportunity to respond.<sup>93</sup>

89. Specifically, “it is a breach of the principle of *audi alteram partem* for a decision-maker to base a decision on information that has not been disclosed to the party adversely affected, or if it has been disclosed, done in such a manner as not to give the parties a fair opportunity to rebut it.”<sup>94</sup> Taseko did not have a substantive opportunity to offer its views on (and correct the errors in) the Technical Memorandum nor to cross-examine the unnamed author of the Technical Memorandum.

90. The Panel’s acceptance of the Technical Memorandum after the deadline also breached Taseko’s legitimate expectation that the Panel would follow the Public Hearing Procedures the Panel itself had set. A legitimate expectation arises when, “based on the conduct of [a] public official, a party has been led to believe” a certain procedure will be followed. In such cases, “this procedure will be required by the duty of fairness.”<sup>95</sup>

91. In this case, Taseko was not provided a fair opportunity to respond to the evidence in the Technical Memorandum filed by NRCan on the last day of Public Hearings before final oral submissions: the Panel “failed to observe a principle of natural justice, procedural fairness or other procedure that it was required by law to observe ....”<sup>96</sup> This information then became a central component of the TSF Seepage Finding and the Water Quality Finding that is at issue in this judicial review.<sup>97</sup>

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<sup>93</sup> *Doucet-Boudreau v. Nova Scotia (Minister of Education)*, 2003 SCC 62 at para 104; *Supermarchés Jean Labrecque Inc. v. Flamand*, [1987] 2 SCR 219 at 233; *Kane v. Board of Governors of the University of British Columbia*, [1980] 1 SCR 1105 at 1114.

<sup>94</sup> Donald J.M. Brown, Q.C. and the Honourable John M. Evans in *Judicial Review of Administrative Action in Canada* (Toronto: Thomson Reuters, 2016) at 12-2, 12-3 [emphasis added]; see also *C.E.P Union of Canada v. Power Engineers*, 2001 BCCA 743 at para 11; *Kane* at 1113-1116.

<sup>95</sup> *Old St. Boniface Residents Assn. Inc. v. Winnipeg (City)*, [1990] 3 SCR 1170 at 1204; *Baker* at para 26.

<sup>96</sup> *Federal Courts Act*, s. 18.1(4)(b).

<sup>97</sup> See *supra* paras 28-69.

**PART IV – ORDER SOUGHT:**

92. Taseko seeks a declaration that the following findings of the Panel are invalid and are quashed or set aside:

- (i) the Panel's determination that Taseko underestimated the volume of tailings pore water seepage leaving the TSF;<sup>98</sup>
- (ii) the Panel's decision to accept NRCan's upper bound estimate as the expected seepage rate from the TSF;<sup>99</sup> and
- (iii) the Panel's conclusion that the concentration of water quality variables in Fish Lake and Wasp Lake would likely be a significant adverse environmental effect<sup>100</sup>

(the "Impugned Findings").<sup>101</sup>

93. Taseko also seeks a declaration that the Panel failed to observe principles of procedural fairness in its conduct of the public hearing process related to the environmental assessment of the Project.<sup>102</sup>

94. Should the declarations sought by Taseko be granted in whole or in part, it follows that the matter must be remitted to the Panel to reconsider the Impugned Findings and remedy the breaches in the Panel's process (as applicable), and to then make new determinations in accordance with the directions provided by this Court.<sup>103</sup>

95. As a related point, the decision-making process mandated by *CEAA 2012* cannot proceed in the absence of a valid panel report.<sup>104</sup> Where a panel report is deficient at

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<sup>98</sup> The Report at 64 (Aff. #3 of McManus, ex. A1 at 80) [AR 5, p.812].

<sup>99</sup> The Report at 64 (Aff. #3 of McManus, ex. A1 at 80) [AR 5, p.812].

<sup>100</sup> The Report at 87-88 (Aff. #3 of McManus, ex. A1 at 103-04) [AR 5, p.835-36].

<sup>101</sup> Amended Notice of Application at 4[AR 1, p.4].

<sup>102</sup> Amended Notice of Application at 4[AR 1, p.4].

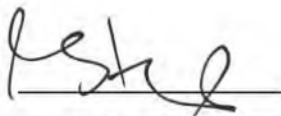
<sup>103</sup> *Pembina Institute for Appropriate Development v. Canada (Attorney General)*, 2008 FC 302 at para 80; see also Reasons for Order and Order of Justice Harrington made April 17, 2014 (2014 FC 371) at para 4 ("The parties have persuaded me that the Court indeed has jurisdiction to decide whether the report should be sent back to the Panel for reconsideration, particularly as regards a major point of contention, seepage from the Tailings Storage Facility") [AR 1, p.145].

<sup>104</sup> The Minister is required to take the Report into account before making a decision under s 52(1): *CEAA 2012*, s 47. See *Alberta Wilderness Assn. v. Canada (Minister of Fisheries and Oceans)*, [1999] 1 F.C. 483 (C.A.) at paras 17-22.

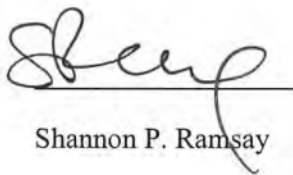
law and does not comply with CEAA and/or the panel's terms of reference, any subsequent decision that is made on the basis of the flawed panel report is made without jurisdiction and is a nullity.<sup>105</sup>

96. As addressed by the applicant in the related proceeding, T-744-14, a secondary effect of the relief sought by Taseko in this application, therefore, is that the subsequent decisions of the Minister and the GIC regarding the Project, decisions which are the subject of T-744-14, are rendered void due to the flaws in the Report identified above.<sup>106</sup>


**RESPECTFULLY SUBMITTED** this 7th day of November, 2016.



K. Michael Stephens



Shannon P. Ramsay



Kenneth K. Leung

Counsel for the applicant, Taseko Mines Limited

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<sup>105</sup> *Imperial Oil Resources Ventures Ltd. v. Canada (Minister of Fisheries and Oceans)*, 2008 FC 598 at paras 6-7; see also *Alberta Wilderness Assn. v. Cardinal River Coals Ltd.*, [1999] 3 F.C. 425 (T.D.) at para 87, and *Alberta Wilderness Assn. v. Canada (Minister of Fisheries and Oceans)*, [1999] 1 F.C. 483 (C.A.) at paras 17-18.

<sup>106</sup> *Imperial Oil Resources v. Canada (Minister of Fisheries and Oceans)*, 2008 FC 598 at paras 6-7.

PART V – LIST OF AUTHORITIES:

<b>Case Authorities</b>	<b>Tab</b>
<i>Air Canada v. Greenglass</i> , 2014 FCA 288	1.
<i>Alberta Wilderness Assn. v. Canada (Minister of Fisheries and Oceans)</i> , [1999] 1 F.C. 483 (C.A.)	2.
<i>Alberta Wilderness Assn. v. Cardinal River Coals Ltd.</i> , [1999] 3 F.C. 425 (T.D.)	3.
<i>Arsenault v. Canada (Attorney General)</i> , 2016 FCA 179	4.
<i>Baker v. Canada (Minister of Citizenship and Immigration)</i> , [1999] 2 SCR 817	5.
<i>Bow Valley Naturalists Society v. Alberta (Minister of Environmental Protection)</i> , 1995 CanLII 9230 (ABQB)	6.
<i>Canada (Citizenship and Immigration) v. Khosa</i> , 2009 SCC 12	7.
<i>Canadian Union of Postal Workers v. Healy</i> , 2003 FCA 380	8.
<i>C.E.P Union of Canada v. Power Engineers</i> , 2001 BCCA 743	9.
<i>C.U.P.E. v Ontario (Minister of Labour)</i> , 2003 SCC 29	10.
<i>Doucet -Boudreau v. Nova Scotia (Minister of Education)</i> , 2003 SCC 62	11.
<i>Grand Riverkeeper, Labrador Inc. v. Canada (Attorney General)</i> , 2012 FC 1520	12.
<i>Gravelle v. Canada (Attorney General)</i> , 2015 FC 1175	13.
<i>Greenpeace Canada v. Canada (Attorney General)</i> , 2014 FC 1124, aff'd 2016 FCA 114	14.
<i>Greenpeace Canada v. Canada (Attorney General)</i> , 2016 FCA 114	15.
<i>Imperial Oil Resources Ventures Ltd. v. Canada (Minister of Fisheries and Oceans)</i> , 2008 FC 598	16.
<i>Kane v. Board of Governors of the University of British Columbia</i> , [1980] 1 SCR 1105	17.
<i>Kenyon v. BC (Supt of Motor Vehicles)</i> , 2015 BCCA 485	18.
<i>Old St. Boniface Residents Assn. Inc. v. Winnipeg (City)</i> , [1990] 3 SCR 1170 at p. 1204	19.
<i>Ontario Power Generation Inc. v. Greenpeace Canada</i> , 2015 FCA 186	20.
<i>Pembina Institute for Appropriate Development v. Canada (Attorney General)</i> , 2008 FC 302	21.

<i>Rohm &amp; Haas Canada Limited v Canada (Anti-Dumping Tribunal)</i> , [1978] FCJ No 522, 22 NR 175	22.
<i>R.S. v. Canada (Citizenship and Immigration)</i> , 2012 FC 860	23.
<i>Supermarchés Jean Labrecque Inc. v. Flamand</i> , [1987] 2 SCR 219 at p. 233	24.
<b>Legislation</b>	<b>Tab</b>
<i>Canadian Environmental Assessment Act</i> , 2012, SC 2012, c 19	25.
<i>Federal Courts Act</i> , RSC 1985, c F-7	26.
<b>Secondary Sources</b>	<b>Tab</b>
Donald J.M. Brown, Q.C. and the Honourable John M. Evans in <i>Judicial Review of Administrative Action in Canada</i> (Toronto: Thomson Reuters, 2016)	27.



## **BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS**

312-345 Chief Alex Thomas Way  
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**BCAFN ANNUAL GENERAL MEETING**  
**Songhees Wellness Centre, Victoria, BC**  
**October 24-26, 2016**

**Resolution 14/2016**

**SUBJECT: SUPPORT FOR THE TSILHQOT'IN NATION AND OPPOSITION TO FURTHER  
PROVINCIAL APPROVALS FOR THE REJECTED NEW PROSPERITY MINE**

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# OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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UNION OF B.C. INDIAN CHIEFS  
48<sup>TH</sup> ANNUAL GENERAL ASSEMBLY  
SEPTEMBER 21<sup>ST</sup> TO 23<sup>RD</sup>, 2016

MUSQUEAM COMMUNITY CENTRE, X<sup>W</sup>MƏƏK<sup>W</sup>ƏYƏM (MUSQUEAM TERRITORY)

**Resolution no. 2016-49**

**RE: Support for the Tsilhqot'in Nation and Condemning the Provincial Amendment Process for the "Prosperity" Mine**

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Page 098 of 478 to/à Page 104 of 478

Withheld pursuant to/removed as

s.3

## FW: TNG Response to TML Comments

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From: Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>  
To: Russell E. Hallbauer (RHallbauer@tasekomines.com)  
<RHallbauer@tasekomines.com>  
Cc: Cotten, Michael EAO:EX <Michael.Cotten@gov.bc.ca>, John W. McManus  
<JMcManus@tasekomines.com>, Scott Jones <SJones@tasekomines.com>,  
Katherine Gizikoff (KGizikoff@tasekomines.com)  
<KGizikoff@tasekomines.com>, Stockman, Fern P EAO:EX  
<Fern.Stockman@gov.bc.ca>, Harris, Jessica EAO:EX  
<Jessica.Harris@gov.bc.ca>, Tombs, Joanna EAO:EX  
<Joanna.Tombs@gov.bc.ca>  
Sent: March 21, 2017 10:47:01 AM PDT  
Attachments: 2017 03 20 JP Laplante to EAO re Prosperity Amendment TML Cmts.pdf

Good morning. I am forwarding correspondence received from TNG.

Regards,  
Shelley

---

**From:** J.P. Laplante [mailto:[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)]  
**Sent:** Monday, March 20, 2017 4:33 PM  
**To:** Murphy, Shelley EAO:EX  
**Cc:** Jardine, Kevin EAO:EX  
**Subject:** TNG Response to TML Comments  
Hi Shelley,

Please find attached a letter responding to the submissions and email from TML regarding the February 14 EAO requests.

Regards,  
JP

J.P. Laplante  
Mining, Oil and Gas Manager  
Tsilhqot'in National Government  
253 4<sup>th</sup> Ave North, Williams Lake BC V2G 4T4  
Tel: 250-392-3918  
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Email: [jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)  
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Web: [www.teztanbiny.ca](http://www.teztanbiny.ca)



## TŚILHQOT'IN NATIONAL GOVERNMENT

253 – 4<sup>th</sup> Avenue North • Williams Lake, BC V2G 4T4 • Phone (250) 392-3918 • Fax (250) 398-5798

March 20, 2016

Environmental Assessment Office  
PO BOX 9426 STN PROV GOVT  
VICTORIA BC  
V8W9V1  
CANADA

**Attn: Shelley Murphy**  
Executive Project Director

via email: [Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Dear Ms. Murphy:

Thank you for forwarding the letter from Mr. Hallbauer to Mr. Jardine, dated March 7, 2017, and Mr. Hallbauer's email to you on March 10, 2017. I note that Mr. Hallbauer, in both the letter and email, does not provide any feedback to Mr. Jardine's invitation to comment on the considerations guiding the amendment decision. Instead, Mr. Hallbauer simply repeats the same assertions from the company that were firmly rejected by the independent federal panel reviewing New Prosperity and by the Federal Government itself. We do not intend to respond to those false assertions yet again at this point.

Sincerely,

---

**J.P. Laplante**  
TNG Mining, Oil and Gas Manager

cc. *Tsilhqot'in Chiefs*  
*Gary Crowe (TNG Executive Director)*  
*Kevin Jardine (EAO Associate Deputy Minister)*

## **Prosperity amendment review: update on next steps regarding the framework**

From: Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>  
To: J.P. Laplante <jlaplante@tsilhqotin.ca>, Russell E. Hallbauer  
(RHallbauer@tasekomines.com) <RHallbauer@tasekomines.com>  
Cc: Cotten, Michael EAO:EX <Michael.Cotten@gov.bc.ca>, Harris, Jessica  
EAO:EX <Jessica.Harris@gov.bc.ca>, Stockman, Fern P EAO:EX  
<Fern.Stockman@gov.bc.ca>, Tombs, Joanna EAO:EX  
<Joanna.Tombs@gov.bc.ca>, Katherine Gizikoff  
(KGizikoff@tasekomines.com) <KGizikoff@tasekomines.com>, Scott Jones  
<SJones@tasekomines.com>, John W. McManus  
<JMcManus@tasekomines.com>  
Sent: March 31, 2017 4:24:27 PM PDT  
Attachments: image003.jpg

Good afternoon.

I am writing to provide an update on the EAO's consideration of the relevant factors for the review of Taseko's amendment application.

As you know, we received comments from both TNG and Taseko on March 7, 2017. After reviewing those comments, and considering the next steps, we have decided that there may be value in seeing the responses to my letter of March 3, 2017, in case there are comments or issues raised that might have relevance to the factors for consideration.

Both TNG and Taseko have indicated that responses to the March 3 letter will be provided to the EAO by April 13, 2017. We look forward to receiving those.

Please let us know if you have any questions.

Regards,

*Shelley Murphy*

Executive Project Director

250-387-1447

[shelley.murphy@gov.bc.ca](mailto:shelley.murphy@gov.bc.ca)

**EAO**

Environmental  
Assessment Office

## Re: Prosperity: Taseko correspondence

---

From : Kukpi7 Judy Wilson <judywilson@neskonlith.net>  
To: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>  
Cc: charleneb@esketemc.ca, govadvisor@esketemc.ca, referrals@esketemc.ca, chief@canoecreekband.ca, stewardship@canoecreekband.ca, larryfletcher.hbfn@gmail.com, angie@hbfn.ca, ann.louie@williamslakeband.ca, Aaron.higginbottom@williamslakeband.ca, Rhonda.Leech@williamslakeband.ca, chief@xatsull.com, referrals@xatsull.com, referrals@neskonlith.net, Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>  
Sent: February 26, 2018 1:56:33 PM PST  
Oh course yes thanks

Chief Judy Wilson  
Skat'sin te Secwépemc  
Neskonlith  
Cell 1-250-320-7738 or Office 1-250-679-3295 Email: [judywilson@neskonlith.net](mailto:judywilson@neskonlith.net)

On Feb 26, 2018, at 9:58 AM, Stockman, Fern P EAO:EX <[Fern.Stockman@gov.bc.ca](mailto:Fern.Stockman@gov.bc.ca)> wrote:

Good Morning,  
Attached please find two submissions the EAO has received from Taseko re: Associate Deputy Minister, Kevin Jardine's letter of February 7, 2018 re: Prosperity Mine Project. Also attached is EAO's response to Taseko's February 15, 2018 submission.

Regards,

Fern

**Fern Stockman** | Project Assessment Manager | BC Environmental Assessment Office  
NEW Phone #: **778 698-9313** | Mobile: 250-889-0417 | Fax: 250-387-9610 | [www.eao.gov.bc.ca](http://www.eao.gov.bc.ca)

<2018-02-15 Kevin Jardine EAO.PDF>

<313914\_Hallbauer\_FINAL (2018-02-23).pdf>



## Re: Prosperity: submissions extension

---

From : Jay Nelson <jay@jaynelsonlaw.com>  
To: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>  
Cc: jlaplante@tsilhqotin.ca, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
Sent: March 2, 2018 9:27:55 AM PST

Thanks Fern.

On Mar 2, 2018, at 9:00 AM, Stockman, Fern P EAO:EX <[Fern.Stockman@gov.bc.ca](mailto:Fern.Stockman@gov.bc.ca)> wrote:

Good Morning Jay and J.P.

I am writing to inform you that Taseko has asked for and Kevin Jardine has granted an extension to the submission timeline to March 7, 2018 re: Taseko's ability to substantially start the Prosperity Project and the appropriateness of refusing to amend the Certificate (as described in EAO's letter of February 7, 2018). This extension pushes out the response timeline to March 28, 2018.

I have also attached a submission we received from Stswecem'c Xgat'tem First Nation.

Regards,

Fern

**Fern Stockman** | Project Assessment Manager | BC Environmental Assessment Office  
NEW Phone #: **778 698-9313** | Mobile: 250-889-0417 | Fax: 250-387-9610 | [www.eao.gov.bc.ca](http://www.eao.gov.bc.ca)

## RE: Prosperity submissions re: substantial start

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From: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>  
To: charleneb@esketemc.ca, govadvisor@esketemc.ca, referrals@esketemc.ca, chief@canoecreekband.ca, stewardship@canoecreekband.ca, larryfletcher.hbfn@gmail.com, angie@hbfn.ca, ann.louie@williamslakeband.ca, Aaron.higginbottom@williamslakeband.ca, Rhonda.Leech@williamslakeband.ca, chief@xatsull.com, referrals@xatsull.com, judywilson@neskonlith.net, referrals@neskonlith.net  
Cc: Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>  
Sent: March 22, 2018 8:49:06 AM PDT  
Attachments: 20180226 Prosperity TNG EAO mtg notes\_Final.pdf, image001.jpg

Good Morning,

Attached please find the final meeting summary notes for a meeting between EAO and TNG regarding the Prosperity Project and Taseko's ability to substantially start the Prosperity Project and the appropriateness of refusing to amend the Certificate (as described in EAO's letter of February 7, 2018).

Regards,

Fern

**Fern Stockman** | Project Assessment Manager | BC Environmental Assessment Office  
Phone #: 778 698-9313 | Mobile: 250-889-0417 | Fax: 250-387-9610 | [www.eao.gov.bc.ca](http://www.eao.gov.bc.ca)



**Prosperity Mine Project Proposed Amendment  
Environmental Assessment Office (EAO) Tsihqot'in National Government (TNG) Meeting  
February 23, 2018 1:30-2:30pm**

**Final Meeting Summary**

Attendees:

TNG: J.P. Laplante, Jay Nelson

EAO: Kevin Jardine, Scott Bailey, Shelley Murphy, Fern Stockman

Process re: Taseko's Ability to Substantially Start

- TNG asked if there was any additional information from TNG that Kevin needed to inform his decision on Taseko's ability to substantially start the Prosperity Project by January 14, 2020 and the appropriateness of refusing to amend the environmental assessment (EA) Certificate (described in EAO's letter of February 7, 2018).
- TNG re-stated their request for the EAO to terminate the amendment process or deny the application to amend.
- EAO responded that the TNG letter of January 8, 2018 set out TNG's argument that the project cannot substantially start by January 2020 very clearly. EAO noted that it will be considering all submissions as set out in the process described in EAO's letter of February 7, 2018, and the need to consider the public interest.
- EAO noted that TNG has not responded to the second half of the question re: appropriateness of refusing to amend the Certificate.
- TNG disagreed with Taseko's portrayal of TNG as "obstructionist" (in Taseko's letter of February 15, 2018). TNG stated that they are representing the interests of the Chiefs and the TNG communities, and the significance of the area to the TNG and cultural importance, which are well documented:
  - Two independent panels documented profound cultural significance of the project area.
  - TNG noted the importance of the area as a cultural school where the full range of cultural activities are practiced, a one-stop shop. The location is also the right balance between being accessible and remote.
  - The cultural importance of this area cannot be overstated.
- TNG noted the delays Taseko has encountered are due to the company's own failure to obtain federal approval for the project, on two separate occasions, not TNG being "obstructionist".
- TNG noted the following in relation to the question of Taseko's ability to substantially start the Prosperity Project:
  - The Scott Jones affidavit clearly and repeatedly confirms that Taseko cannot meet the substantial start deadline of January 14, 2020.
  - The Federal Court rejected Taseko's judicial reviews of both the Panel Report and process and the Federal Government's rejection of New Prosperity. The Court found the company's allegations against the New Prosperity Panel to be without merit.
  - TNG noted that the potential for redesign of the project described in the February 14, 2018 Affidavit of John McManus further adds to the futility of the amendment process.
- EAO noted that it is taking TNG's concerns seriously. The process identified in EAO's letter of February 7, 2018 letter needs to play out and during this time, the EAO needs to continue its work on reviewing the amendment request.

## EAO-TNG February 23, 2018 Meeting Summary

- TNG shared the July 26, 2017 Affidavit of Scott Jones with highlighted paragraphs<sup>1</sup> for EAO to consider in its decision on Taseko's ability to substantially start the Prosperity Project by January 14, 2020 and the appropriateness of terminating the amendment process or refusing to amend the Certificate.

### TNG Engagement in the Amendment Process

- EAO encouraged the TNG to reconsider its (December 2017) decision to not participate in the amendment process, noting the importance of the area to the community is important in assessment of the proposed amendment.
- The EAO also noted that the jurisprudence has evolved considerably since the Prosperity EAC was issued, and pointed to how the current legal context was reflected in the decision on the proposed Ajax mine.
- The EAO would welcome the community's reconsideration of its participation in the EAO process.
- TNG stated that the question of participation could be revisited, but it is a difficult conversation with Chiefs and communities because the lack of trust in the EAO is longstanding and it is hard to rebuild that trust. The conversations with the EAO are better than in the past but there are no concrete outcomes that are different to point to.
- TNG stated the EA processes have already had an enormous impact on their communities and hard to justify why communities should participate in a futile process such as this amendment process. TNG stated this is made harder for the community due to the lack of trust with provincial statutory decision makers (e.g. issuance of the Notice of Work during the wildfires).

### Other

- TNG also provided the EAO with an update on the changes in lands and resource management that have occurred since the 2014 Tsilhqot'in decision.
- EAO introduced the EA revitalization process described in the Minister's mandate letter. EAO will follow up with TNG to schedule direct engagement on revitalization.
- TNG stated that it will need a mandate from Chiefs before direct engagement could begin with the EAO on revitalization.
- TNG stated that it would prefer to wait to make a decision on whether and how to engage with the EAO in the revitalization process until after the EAO determination on whether the amendment process should continue.
- TNG noted they would have to see signs of change in order to build reconciliation.

Prepared by: Fern Stockman, Project Assessment Manager, EAO  
Revised based on comments from JP Laplante, TNG

March 13, 2018  
March 21, 2018

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<sup>1</sup> paragraphs 1, 69, 71, 102a, 104, 111, 112, 123, 115, 120, 121, 125, 126, 128, 129, 132, 133

## FW: update to March 6 letter

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**From:** Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>  
**To:** Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
**Sent:** March 23, 2018 2:30:19 PM PDT  
**Attachments:** image001.jpg, revised March 23 letter to Kevin Jardine.pdf

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**From:** John W. McManus [mailto:JMcManus@tasekomines.com]  
**Sent:** Friday, March 23, 2018 2:24 PM  
**To:** Jardine, Kevin EAO:EX  
**Cc:** Murphy, Shelley EAO:EX; Russell E. Hallbauer; Yazmin Sanchez  
**Subject:** RE: update to March 6 letter  
Here is the revised version. My apologies.  
John

---

**From:** John W. McManus  
**Sent:** Friday, March 23, 2018 2:15 PM  
**To:** Jardine, Kevin EAO:EX  
**Cc:** 'Murphy, Shelley EAO:EX'; Russell E. Hallbauer; Yazmin Sanchez ([ysanchez@tasekomines.com](mailto:ysanchez@tasekomines.com))  
**Subject:** RE: update to March 6 letter  
Ive just been advised that there is an error in the dates of the FCA appeal hearings in my letter. I will update and resend shortly.

---

**From:** John W. McManus  
**Sent:** Friday, March 23, 2018 1:39 PM  
**To:** Jardine, Kevin EAO:EX  
**Cc:** 'Murphy, Shelley EAO:EX'; Russell E. Hallbauer; Yazmin Sanchez ([ysanchez@tasekomines.com](mailto:ysanchez@tasekomines.com))  
**Subject:** update to March 6 letter  
Hi Kevin,  
Please see the attached. feel free to contact me with any questions.  
Regards,  
John  
**John W. McManus P.Eng.**  
Chief Operating Officer



**Taseko Mines Limited** | 1040 - West Georgia, Suite 1500 Vancouver, BC V6E 4H1  
**D** 778-373-4552 **T** +1-778-373-4533 **F** +1-778-373-4534  
**E** [JMcManus@tasekomines.com](mailto:JMcManus@tasekomines.com) **Web** [tasekomines.com](http://tasekomines.com)

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March 23, 2018

Mr. Kevin Jardine  
Associate Deputy Minister  
Province of British Columbia  
Environmental Assessment Office  
PO BOX 9426 STN PROV GOVT  
VICTORIA BC  
V8W 9V1


By email and hard copy *Revised*

Dear Mr. Jardine,

In recent days we have had the opportunity consider your March 9, 2018 determination that the Kitsault Mine has been "substantially started". This has been a very enlightening decision for us and is information that was not available to Scott Jones when he swore the affidavit that you have previously mentioned. As such, I am sending this letter as a follow-up to my letter of March 6, 2018.

While we appreciate that every case depends on its own facts, the Kitsault decision provides considerable guidance as to the amount of physical activity EAO would require in order to consider a metal mine "substantially started". This guidance allows us to more fully consider the path towards substantially starting the New Prosperity mine by January 2020. In this regard, we ask that you consider the following as you go about your stated intention to decide whether the New Prosperity certificate amendment process should be prematurely terminated (after being in your office nearly seven years).

1. The activities undertaken at the Kitsault project included 4.3 km of new road access, a bridge replacement, and approximately 60 ha of surface development including clearing, stripping, and stockpiling of 200,000 m<sup>3</sup> of materials. We have asked an established Williams Lake based contractor (Peterson Contracting Ltd.) to provide us with an estimate of the amount of similar work that could be completed within a three month timeframe at New Prosperity (see attached). The amount of work completed under this scenario would be significantly more than the Kitsault project. It is comprised of 1,550 ha of surface development including clearing and stripping 100% of the proposed area for the new access road, plantsite, stockpile areas, phase 1 of the open pit, the transmission corridor, main tailings embankment, and the year 2 footprint of the TSF. On such a basis, this would require work to start no later than November 2019.



2. In order to undertake construction, we would require a Mines Act construction permit. We believe an estimate of 6-9 months is reasonable for processing such an application, if government proceeded with reasonable effort and a willingness to make timely decisions. In this regard, we note that MEM already did considerable work on the Prosperity Mines Act construction permit, and we further note that MEM can (and does) issue partial construction permits (i.e. phased construction permits) in appropriate cases. We are reviewing the previous work done for permitting and we are preparing to approach MEM with a proposal to begin updating that file in anticipation of submitting a new Mines Act permit application. Using this estimate, we would need to enter the construction permitting phase in approximately February – April 2019. However, see point 4 below, we may be able to do that at a considerably earlier date.

3. In order to prepare for our construction permit application, we need to complete certain work under the Notice of Work issued by the province in 2017. We had originally planned to do that work over several years but in the current circumstance we would focus on only the work specifically required to be substantially started and we could complete that in the 2018 summer season. That is a reasonable target given that field work under the NoW could possibly commence as early as May – once the BC Supreme hearings regarding the Canadian Environmental Assessment Act, 2012 section 6 issue and the TNG injunction application have been heard. CEAA S. 6 hearings are scheduled for April 23/24, 2018 and the TNG injunction hearing has been tentatively set down for May 7-8, 2018.

4. Our engineering consultant has confirmed that they are able to perform data analysis and detailed engineering of the tailings storage facility and water management systems in parallel with the field work rather than sequentially following the field work program as was laid out in Mr. Jones affidavit. This is not a normal course approach however it would considerably shorten the time required, allowing for a new Mines Act construction permit application as early as the fall of this year. That would leave more than a year for MEM to review the application and perform necessary consultation and other permitting activities rather than the timeline given in point 2 above.

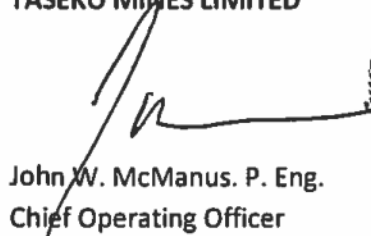
5. The outstanding Federal Court appeals will be heard this coming fall. It is reasonable to assume judicial decisions would be rendered in early 2019 and a federal reconsideration occurring in Spring or Summer 2019. This timing would not present any impediment starting construction in late 2019

Obviously there are some contingencies in the above – e.g. Taseko must succeed in certain litigation and the Federal government must reconsider its decision. Similarly, there are additional potential bases for delay, such as if the construction permit were unduly delayed by government or if there was civil disobedience (as occurred in past). Such risks were alluded to by Mr. Jones when he swore his affidavit (e.g. at paragraph 130 he refers to government changing requirements). But while they may represent some risks to Taseko substantially starting the New Prosperity Project by January 2020, none are inevitable and none are things that you can assume will occur as you undertake your extraordinary determination as to whether the EAO should terminate the certificate amendment process prematurely.

Given all of the above, and in light of the additional guidance we have now been provided by your Kitsault decision, we submit there is no basis (legally or factually) for you to prematurely terminate our amendment application. As such we – once again - ask for a decision on the merits of our application forthwith, and continue to remind you that further unnecessary delays are potentially harmful to our company's interests.

Sincerely yours,

**TASEKO MINES LIMITED**

  
John W. McManus, P. Eng.  
Chief Operating Officer



Cc: Russell E. Hallbauer, P. Eng.

Shelley Murphy, BCEAO



## PETERSON CONTRACTING LTD.

4705 CATTLE DRIVE, WILLIAMS LAKE, BC V2G 5E8  
PHONE (250) 392-3292 FAX (250) 392-6676

Project Element	Feature	Pre-production Disturbance Required (ha) in 3? Months
Mine	Open Pit	50
	Waste Rock and Overburden Stockpile	50
	Ore Stockpile	40
	Soil Stockpiles	120
	Primary Crusher and Overland Conveyor	45
	Plant Site	40
	Tailings Storage Facility	500
	Site Haul Roads	75
Transmission Line		600
Access Road and Transportation Corridor		40
Concentrate Rail Load-Out Facility		0
<b>Total</b>		<b>1550</b>

### Estimated Timeline for clearing September 1st- Dec 1st

1550 ha divide by 2.5 ha per day = 620 clearing and piling days  
620 piling days divided 12 Cat D8 Cats c/w rippers, clearing, and angle blades = 52 days @ 10 hrs/day or 30 to 40 days @ 20hrs/day (not as efficient in dark)

Also requiring 2 more D8s and 2 330 size excavators to tend burning piles as piling progresses.

### Estimated Timeline for stripping

**North Area (pit, mill etc.) (assume 1 meter depth, add 40 Ha for haul roads on site):**

300 ha x 1 meter deep = 300,000 m3 divide by 60 days = 5000 m3/day/10 - 773 Cat trucks = 500 m3/day/23m3 per load = 21 loads per truck/day. This is reasonable.

**TSF Area (assume 1 meter depth, add 30 Ha for haul roads on site):**

530 ha x 1 meter deep = 530,000 m3 divide by 60 days = 8834 m3/day/15 - 773 Cat trucks = 589m3/day/23m3 per load = 26 loads per truck/day. This is reasonable.

Best regards,



Wayne Peterson, President  
Peterson Contracting Ltd  
(250) 392-3292 – Office  
(250) 398-0060 - Cell



## FW: Letter from TNG to EAO re Certificate Amendment Process

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From: Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>  
To: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
Sent: March 28, 2018 1:24:14 PM PDT  
Attachments: 2018 03 28 JPL - KJ SM Re TML Amendment Application.pdf

FYI and filing

---

**From:** J.P. Laplante [<mailto:jlaplante@tsilhqotin.ca>]  
**Sent:** Wednesday, March 28, 2018 6:35 AM  
**To:** Jardine, Kevin EAO:EX; Murphy, Shelley EAO:EX  
**Cc:** Jay Nelson ([jay@jaynelsonlaw.com](mailto:jay@jaynelsonlaw.com))  
**Subject:** Letter from TNG to EAO re Certificate Amendment Process

Dear Kevin and Shelley,

Please find attached a letter from TNG to the EAO regarding your inquiry into whether the EAO should refuse TML's application to amend the Prosperity Mine EA Certificate on the grounds that TML cannot meet the substantial start deadline.

Regards,

JP

J.P. Laplante

Mining, Oil and Gas Manager

Tsilhqot'in National Government

253 4<sup>th</sup> Ave North, Williams Lake BC V2G 4T4

Tel: 250-392-3918

Fax: 250-398-5798

Email: [jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Web: [www.tsilhqotin.ca](http://www.tsilhqotin.ca)

Web: [www.teztanbiny.ca](http://www.teztanbiny.ca)

Facebook: <https://www.facebook.com/TsilhqotinNationalGovernment/>



## T̑ILHQOT'IN NATIONAL GOVERNMENT

253 – 4<sup>th</sup> Avenue North □□ Williams Lake, BC V2G 4T4 □□ Phone (250) 392-3918 □□ Fax (250) 398-5798

March 28, 2018

Environmental Assessment Office  
PO BOX 9426 STN PROV GOVT  
VICTORIA, BC  
V8W 9V1

**Attn:**

**Kevin Jardine**  
Associate Deputy

**Shelley Murphy**  
Executive Project Director

via email:

Kevin.Jardine@gov.bc.ca

shelley.murphy@gov.bc.ca

Dear Mr. Jardine and Ms. Murphy:

Thank you for the opportunity to reply to the submissions made by Taseko Mines Limited ("**Taseko**") in response to the Environmental Assessment Office's ("**EAO**") inquiry<sup>1</sup> into whether the EAO should refuse Taseko's application to amend the Prosperity Mine environmental assessment certificate ("**Certificate**") on the grounds that Taseko cannot meet the substantial start deadline of January 14, 2020 ("**Deadline**") and the Certificate will expire in any event.

These are the reply submissions of the Tsilhqot'in National Government (**TNG**). Put simply, Taseko's recent submissions to the EAO provide no credible reason to depart from the clear, unequivocal evidence of the company itself, in prior proceedings, that Taseko cannot possibly meet its substantial start deadline at this late stage.

There is no public interest in proceeding with a futile amendment process, or expending significant time and resources on reviewing amendments to a Certificate that is bound to expire in any event. The EAO can and should refuse to amend the Certificate and terminate this amendment process in the public interest.

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<sup>1</sup> See: Letter, K Jardine (EAO) to R Hallbauer (Taseko), Feb. 7, 2018.

**A. Taseko itself has confirmed that it cannot meet the substantial start deadline**

In his March 6 letter, Mr. McManus suggests that “nobody knows with complete certainty” whether Taseko can substantially start the New Prosperity project by January 2020.<sup>2</sup>

However, Taseko *itself* has confirmed with complete certainty that it cannot meet the Deadline. In an affidavit affirmed July 26, 2017, Scott Jones, Vice President Engineering, confirms this exact point – *explicitly, repeatedly and unequivocally*.

Mr. Jones affirmed his affidavit in response to injunction proceedings brought by the Tsilhqot'in Nation to enjoin Taseko's proposed drilling program (“**Drilling Program**”).

In his affidavit, Mr. Jones provides extensive evidence to establish that *any delay* in commencing the Drilling Program would cause Taseko to not meet the Deadline and its Certificate to expire, at great expense and inconvenience for Taseko. In fact, the critical section of his affidavit on this point is titled, “**Delay Will Cause Taseko to not Meet Conditions of the Provincial Environmental Assessment Certificate**”.<sup>3</sup>

When Mr. Jones swore his affidavit, Taseko intended to start the Drilling Program as early as August 7, 2017.<sup>4</sup> With that start date in mind, Mr. Jones deposed:

... The current circumstances are such that **failure to immediately start the work** contemplated under the Notice of Work program will impact the critical path schedule to such an extent that I believe **Taseko will not be able to achieve substantial start of the Project by January 2020**.<sup>5</sup>

...

This leaves no room for error in Taseko's anticipated time estimates for the 30% of the critical path schedule that are largely controlled by the Province ... There is also **no room for further movement in the 70% of the critical path schedule relating to work that is within Taseko's control**.<sup>6</sup>

...

The timelines under the current critical path schedule **cannot be achieved if the Critical Data required for this analysis is not collected in 2017**.<sup>7</sup>

---

<sup>2</sup> Letter, J McManus (Taseko) to K Jardine (EAO), March 6, 2018, p 3.

<sup>3</sup> Affidavit of Scott Jones, affirmed July 26, 2017 (“**Jones Affidavit**”), heading above para 103 (bold in original).

<sup>4</sup> Jones Affidavit, para 120 (emphasis added).

<sup>5</sup> Jones Affidavit, para 104 (emphasis added).

<sup>6</sup> Jones Affidavit, paras 111-12 (emphasis added).

<sup>7</sup> Jones Affidavit, para 126 (emphasis added).

...

Taseko has adjusted the Notice of Work program work schedule to defer as much work as possible to 2018. There is no ability to defer any further site investigation and data collection activities to 2018. **The remaining work planned for 2017 must proceed if Taseko is going to meet the January 2020 deadline under the Certificate.**<sup>8</sup>

...

In short, **if Taseko is delayed** in the commencement of its Notice of Work program and the work described above, **Taseko will suffer significant prejudice because the Certificate will lapse** and Taseko will be forced to incur significant time and expense to try to obtain a new certificate.<sup>9</sup>

...

Even if Taseko were able to achieve substantial start of the Project such that the Certificate did not lapse (which I do not think is possible if there is **any delay in commencing work**) ...<sup>10</sup>

Mr. Jones' testimony is clear, direct and unequivocal: "any delay in commencing work" would be fatal to meeting the substantial start deadline and the "work planned for 2017 must proceed if Taseko is going to meet the January 2020 deadline under the Certificate".<sup>11</sup>

As matters unfolded, Taseko did not undertake the work planned for 2017. The injunction hearings were adjourned when Taseko agreed not to proceed with the Drilling Program pending resolution the Canadian Environmental Assessment Agency's ("CEAA") position that the Drilling Program violated section 6 of the *Canadian Environmental Assessment Act, 2012*. That litigation is currently scheduled to be heard on April 23-24. The Tsilhqot'in Nation has set down court dates on May 7-8 to renew its injunction application in the event CEAA is unsuccessful and Taseko elects to proceed with the Drilling Program.

As a result, Taseko has no prospect of starting the Drilling Program (even if successful in the related litigation) until some **9 months** after it avowed "any delay" would be fatal to achieving the substantial start deadline.<sup>12</sup> We are now 8 months and counting since Mr. Jones affirmed that "failure to **immediately start** the work contemplated under the Notice of Work program will impact the critical path schedule to such an extent that I believe Taseko will not be able to achieve substantial start of the Project by January 2020".<sup>13</sup>

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<sup>8</sup> Jones Affidavit, para 128 (emphasis added).

<sup>9</sup> Jones Affidavit, para 132 (emphasis added).

<sup>10</sup> Jones Affidavit, para 134 (emphasis added).

<sup>11</sup> Jones Affidavit, paras 134; 128.

<sup>12</sup> Jones Affidavit, para 134.

<sup>13</sup> Jones Affidavit, para 104 (emphasis added).

Taseko's own evidence could not be clearer on this point: Taseko *cannot* meet the Deadline at this late stage and its Certificate *will* expire in any event.

## **B. Taseko's latest revised timeline is not credible**

In recent correspondence to the EAO,<sup>14</sup> Taseko purports to set out a new timetable for achieving a substantial start by January 2020, wholly contradicting its position in court during the injunction proceedings and the direct evidence of Mr. Jones—its own Vice President, Engineering.

Taseko's efforts to revise its Critical Path Schedule – yet again – to suit its interests in the moment are simply not credible and should be given no weight.

This is now the *third* time Taseko has provided decision-makers (regulatory or judicial) with a different timeline for substantial start. Taseko first submitted its "Critical Path to Demonstration of Substantial Start"<sup>15</sup> to the Statutory Decision-Maker in December 2016.<sup>16</sup> This original Critical Path targeted the start of the Drilling Program in January 2017. Mr. Jones deposed, "[a]n early January 2017 start date was chosen because that date would enable an **aggressive but achievable** schedule to complete the necessary work in the requisite time frame".<sup>17</sup>

However, the Drilling Program was not approved until July 2017 – some six months after Taseko had planned to start the Drilling Program to maintain its Critical Path.<sup>18</sup> As a result, Taseko had to revise its "aggressive but achievable" Critical Path. As described by Mr. Jones in his July 2017 affidavit,

As approval of the Notice of Work program was not issued until mid-July 2017, **Taseko has adjusted the critical path to defer all non-critical items** but significant work must still be done in 2017 to achieve substantial start of construction of the Project by January 2020 as required under the Certificate.<sup>19</sup>

As noted above, Mr. Jones confirmed repeatedly that the Revised Critical Path left no room for any further delay:

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<sup>14</sup> See: Letter, J McManus (Taseko) to K Jardine (EAO), March 21, 2018.

<sup>15</sup> Jones Affidavit, Exhibit 44. Note that this is the only graphic depiction provided by Taseko of its substantial start schedule, showing how much time is allocated to each critical path activity. Taseko has provided written assertions that it can compress this timetable in the Jones Affidavit and again to the EAO in Mr. McManus' recent March 23 letter, but those latter documents do not provide an updated table showing critical path activities.

<sup>16</sup> Jones Affidavit, para 69.

<sup>17</sup> Jones Affidavit, para 113. Note that even on this initial schedule, the Critical Path states, "[n]o allowance for potential delays has been included (eg. weather and/or wildlife window restrictions or other unforeseen circumstances)": Jones Affidavit, Exhibit 44.

<sup>18</sup> Jones Affidavit, para 115.

<sup>19</sup> Jones Affidavit, para 71 (emphasis added).

- He described “no room for error”<sup>20</sup> in the 30% of the schedule within the control of the Province (in fact, he cautioned that the schedule “already reflected an optimistic view of time required by the provincial government ... and efforts to condense the time estimates allocated to those steps will not be successful”).<sup>21</sup>
- He stated without qualification that [t]here is also **no room for further movement** in the 70% of the critical path schedule relating to work that is within Taseko’s control”.<sup>22</sup> In other words, “Taseko has adjusted the Notice of Work program schedule to defer as much work as possible to 2018. There is **no ability to defer** any further site investigation and data collection activities to 2018”.<sup>23</sup>

Taseko fully argued the injunction hearings in early August 2017 on the basis of this evidence.

It is entirely self-serving, and defies credulity, for Taseko to now argue that it has revised its Critical Path *yet again* and found at least 9 months of additional time savings (out of a 29 month Substantial Start schedule)<sup>24</sup> after directly arguing in court proceedings last August that there was “no room for further movement”, “no ability to defer” the Drilling Program any longer, and that “any delay” or “failure to immediately start” the Drilling Program would be fatal to meeting the Deadline.

Mr. McManus tries to explain this latest revised timeline from Taseko by reference to the recent EAO substantial start determination for Kitsault Mine.<sup>25</sup> He argues that this “very enlightening” determination was not available to Mr. Jones when he affirmed his affidavit, and has allowed Taseko to “more fully consider the path towards substantially starting the New Prosperity Mine by January 2020”.<sup>26</sup>

This position is transparently false. There is nothing in the Kitsault Mine determination that indicates a lower threshold for substantial start than the EAO’s previous guidance and decisions. In fact, the physical work described by Mr. McManus in his March 23 letter would fail to meet the substantial start threshold set out in the Kitsault Mine decision, in any event.

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<sup>20</sup> Jones Affidavit, para 111.

<sup>21</sup> Jones Affidavit, para 129.

<sup>22</sup> Jones Affidavit, para 112 (emphasis added).

<sup>23</sup> Jones Affidavit, para 128.

<sup>24</sup> Calculating that the revised Critical Path in Mr. Jones’ Affidavit covers approximately 29 months from the anticipated start date of August 7, 2017 to the January 14, 2020 deadline.

<sup>25</sup> Letter, J McManus (TML) to K Jardine (EAO), March 23, 2018; Kevin Jardine, Associate Deputy Minister, Environmental Assessment Office, *Reasons for Associate Deputy Minister Determination*, In the matter of the Environmental Assessment Act S.B.C. 2002, c 43 and In the matter of a Substantially Started Determination under Section 18(5) of the Act for the Kitsault Mine Project of Avanti Kitsault Mine Ltd. (9 March 2018).

<sup>26</sup> Letter, J McManus (TML) to K Jardine (EAO), March 23, 2018, p 1.

Mr. McManus relies on contractor Peterson Contracting Ltd.'s estimate that it can complete 1,550 ha of surface development, "including clearing and stripping 100% of the proposed area for the new access road, plantsite, stockpile areas, phase 1 of the open pit, the transmission corridor, main tailing embankment, and the year 2 footprint of the TSF," in a three month timeframe ("**Work Plan**"). Mr. McManus states that this is "significantly more" work than the activities undertaken at the Kitsault Mine project that provided the basis for the EAO's positive substantial start determination.

This assertion is incorrect. Mr. McManus fails to consider, or even mention, the EAO's reliance on significant construction work completed at the Kitsault Mine far beyond the surface clearing proposed by Taseko in the Work Plan.

At Kitsault Mine, the proponent had completed substantial construction activity, including construction of 4.3 km of new access roads and a significant bridge replacement, in addition to surface development. The proponent had also installed water management infrastructure at Kitsault Mine, stabilized disturbed land surfaces associated with the new access roads, and completed construction of several infrastructure and ancillary facilities such as a wastewater treatment plant.

In the Kitsault decision, the EAO confirmed that surface development activities "may not be as significant as the construction of physical buildings, structures or roads". The EAO found that Kitsault Mine achieved substantial start, but based this determination on the "physical activity undertaken on the various components of the Project, taken together," and cautioned: "While the work on any one component of the Project **may not stand out, all the physical activity considered cumulatively** constitutes a Project that is substantially started; **albeit, in my view, not by a large margin.**"

By contrast, Taseko's Work Plan is limited to stripping and clearing surface development, with no construction of physical buildings, structures, or roads. If anything, the Kitsault decision reinforces the conclusion that Taseko *cannot* substantially start the New Prosperity project by January 2020. The EAO has never made a positive substantial start determination for a mine in the absence of physical buildings, structures, or roads.<sup>27</sup>

More fundamentally, there is no merit to Taseko's suggestion that the Kitsault Mine determination somehow changed the substantial start threshold as it stood when Mr. Jones affirmed his affidavit, so as to justify significantly revising a Critical Path that "left no further room for movement".<sup>28</sup> The Kitsault Mine determination is not a credible reason to depart from Mr. Jones' clear affidavit evidence.

The EAO should give no weight to Taseko's latest efforts to revise its Critical Path in its March 23 letter. Presented with conflicting evidence from Taseko itself on whether it can meet the Deadline, the EAO *can* and *should* prefer the clear and cogent evidence of Mr.

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<sup>27</sup> See the EAO substantial start determinations for the Brucejack Gold Mine, Red Chris Porphyry Copper-Gold Mine, Roman Coal Mine, Ruby Creek Molybdenum mine, and Tulsequah Chief Mine.

<sup>28</sup> Jones Affidavit, para 112.



Jones, affirmed under oath, as Vice President Engineering, speaking directly to this issue. Taseko's assertions in the March 23 letter, by contrast, are self-serving and clearly fashioned to advance the immediate interests of the company.

### **C. The Deadline cannot be extended beyond January 14, 2020**

Taseko also asserts, for the first time, that the January 14, 2020 Deadline is not final, but rather can be extended under s. 24(4) of the *EAA*.<sup>29</sup>

In its March 19, 2018 letter to Taseko, the EAO rejected Taseko's assertion:

Section 24 of the Act has no application to section 18 . . . Section 24 cannot be used to further extend the duration of a Certificate. The EAO is of the view that there is no mechanism under the Act to further extend the duration of the Certificate for the Project.<sup>30</sup>

We fully agree with the EAO's position. Taseko cannot extend the Deadline under s. 24(4) – it is final.

Under s. 18(4) of the *EAA* proponents may receive a one-time only certificate extension, for no more than five years. Taseko has already received this one-time only extension. Section 18(5) of the *EAA* makes it clear that a certificate will expire if the proponent has not substantially started the project by either its original or extended certificate deadline.

Directly relevant case law, EAO policy, and Taseko's own correspondence underscores the finality of Taseko's extension.

In *Taku River Tlingit First Nation v British Columbia (Minister of Environment)*, the BC Supreme Court discusses a mining company's *EAA* certificate extension process and states "[s]ection 18(4) allows **only a single extension**, and **then for no more than five years**."<sup>31</sup> The Court also emphasizes that section 18 as a whole "shows how time-sensitive the legislature is about environmental approvals."<sup>32</sup>

The EAO's User Guide (January 2018) further affirms the finality of Taseko's extension. This guidance document states:

If a project will not be substantially started by the certificate deadline, a certificate holder may apply for a **one-time extension** of the certificate for a period of up to

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<sup>29</sup> See: Letter, J McManus (Taseko) to K Jardine (EAO), March 6, 2018, at page 3, point #5.

<sup>30</sup> See: Letter, K Jardine (EAO) to J McManus (Taseko), March 19, 2018, at page 2.

<sup>31</sup> 2014 BCSC 1278, para 19 (emphasis added).

<sup>32</sup> See para 19.

five years. . . If a certificate extension is granted, the project must be substantially started by the new deadline **or the certificate expires**.<sup>33</sup>

Finally, Taseko itself has acknowledged the deadline is final. For example, in a July 19, 2016 letter, Mr. Hallbauer (President, Taseko) states:

“Finally, we are deeply disturbed by the fact that the EAO knows full well that our certificate expires if construction has not started by January 2020 and **cannot be extended again** (even if and as the federal court litigation results in federal approvals being obtained).”<sup>34</sup>

#### **D. The EAO can and should terminate the Amendment Process**

Taseko asserts that there is no valid reason for the EAO to refuse its amendment application.<sup>35</sup>

There is a valid and important reason – the Amendment Process serves no utility. Taseko’s own evidence shows that it will not be able to substantially start its Project before the Certificate expires in January 2020.<sup>36</sup> There is no point to continuing this Amendment Process. It would require the EAO to expend significant effort and expense for a Certificate that is certain to expire.

As a general rule, an administrative agency is a “master of its own procedure.”<sup>37</sup> An administrative body is fully entitled to terminate a futile application process provided, as here, the applicant has had the opportunity to address this potential termination, including by written submissions.<sup>38</sup>

Further, the EAO has discretion to terminate the Amendment Process on the basis of *mootness*, where the simple evolution of circumstances resolves the main controversy between parties.<sup>39</sup> When a matter is moot, its continuation may be considered an abuse of process because it would be a waste of the decision-maker’s time.<sup>40</sup>

Agencies have the authority to dismiss matters as moot.<sup>41</sup> For example, in *BSA Diagnostics* the Ontario Divisional Court held that “the ability to dismiss proceedings as moot is

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<sup>33</sup> EAO User Guide (January 2018), p 20. The EAO “Guide to Substantially Started Determinations” (January 2017) and “Requesting a Certificate Extension” (April 2016) guidance documents express the same concept (pp 4 and 3, respectively).

<sup>34</sup> See: Letter, R Hallbauer (Taseko) to R Fyfe and K Jardine (EAO), July 19, 2016, as excerpted in Attachment A, page 10 of Letter, J McManus (Taseko) to K Jardine (EAO), March 6, 2018 (emphasis added).

<sup>35</sup> See: Letter, J McManus (Taseko) to K Jardine (EAO), March 6, 2018, at page 4.

<sup>36</sup> See: Letter, J Nelson (TNG) to K Jardine and S Murphy (EAO), January 8, 2018.

<sup>37</sup> Robert W. Macauley & James L.H. Sprague, *Practice and Procedure Before Administrative Tribunals*, (Canada: Thomson Reuters, 2017) (loose-leaf) vol 2 at 9-1 [Macauley & Sprague].

<sup>38</sup> See, e.g.: *Mobil Oil Canada Ltd. v Canada-Newfoundland Offshore Petroleum Board*, [1994] 1 SCR 202.

<sup>39</sup> Macauley & Sprague, above, at 12-141.

<sup>40</sup> See above at 12-142.

<sup>41</sup> See Macauley & Sprague, above, at 12-142, “Absent some legislative direction to the contrary an agency likely has the authority to dismiss a matter as being moot.”

inherent to an agency's ability to control its own process."<sup>42</sup> *BSA Diagnostics* supports the proposition that circumstances outside of an administrative hearing process can render an administrative agency's decision moot, and one factor supporting mootness is that the administrative agency's decision will not change the outcome for the party bringing the appeal. Similarly, in this case, circumstances outside the Amendment Process have rendered it moot, and the outcome of the EAO Amendment Process will not change the ultimate outcome for Taseko – Taseko will not be able to use its Certificate, whether amended or not, because it is bound to expire before Taseko can substantially start the Project.

Finally, the EAO clearly has the authority to *refuse* Taseko's application to amend its Certificate,<sup>43</sup> and there is no reason why the EAO cannot exercise this authority on the grounds that no utility or public interest is served by granting an amendment to a Certificate that will expire in any event.

To summarize, the EAO can and should refuse the application to amend and terminate the Amendment Process. This is the only reasonable and fair course of action given the futility of the process.

#### **E. *Taseko Mines Limited v Canada* has no bearing on the EAO's decision**

On March 19, 2018, Taseko brought the above decision<sup>44</sup> to the attention of the EAO, especially part of paragraph 30, which reads "[i]t is not plain and obvious to me that the difficulties in achieving a substantial start of the New Prosperity Project by January 2020 renders Taseko's petition unnecessary."<sup>45</sup>

Taseko suggests that the Court, in making this statement, was speaking to the possibility of Taseko substantially starting the project. In reality, as discussed below, the Court did *not* consider, and did *not* speak to, the question of whether Taseko could substantially start the project by the Deadline. In fact, Taseko itself argued that this question was irrelevant. What the Court actually concluded was that—*whether or not* Taseko could substantially start the project by Deadline—Taseko's legal argument respecting section 6 of *CEAA, 2012* was not bound to fail and should not be struck out at this preliminary stage.

The Court was considering an application by Canada to strike Taseko's petition in B.C. Supreme Court seeking a declaration that s. 6 of *CEAA 2012* does not apply to the Drilling Program. Canada argued, in part, that the matter was exclusively within the jurisdiction of the Federal Court (not B.C. Supreme Court) and that at any rate it was unnecessary in light of Canada's injunction application in relation to the Drilling Program, where Canada said the same essential issues would be canvassed.

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<sup>42</sup> *B.S.A. Diagnostics Ltd. v Ontario (Attorney General)*, 2014 ONSC 6054, at para 39.

<sup>43</sup> *EAA*, s 19(3)(b).

<sup>44</sup> *Taseko Mines Limited v Canada (Canadian Environmental Assessment Agency)*, 2018 BCSC 417.

<sup>45</sup> See: Letter, J McManus (TML) to K Jardine (EAO), March 19, 2018, at p 1.

Critically, Canada also argued that Taseko's petition was unnecessary because "it is overwhelmingly likely that Taseko will have to undergo a new provincial environmental assessment process and Taseko therefore seeks relief that would serve no useful purpose".<sup>46</sup>

Taseko's response was that it has "two reasons to obtain data from its planned activities [i.e. the Drilling Program]: (1) to continue to pursue the New Prosperity Project (the rejection of which is subject to judicial review appeals); and (2) **for use in a potential refined or revised project design**".<sup>47</sup> Since the latter purpose is unrelated to the current New Prosperity project, Taseko argued that its Petition would still be necessary *whether or not* it could meet the substantial start deadline for that project:

**In light of its dual purposes** for data acquisition from the planned activities, Taseko submits that any difficulties in substantially starting the New Prosperity Project by January 2020 does not determine whether the petition is unnecessary.<sup>48</sup>

Taseko argued that the *purpose* of the Drilling Program was irrelevant to the interpretation of s. 6 of *CEAA, 2012*:

It submits that when construing s. 6, the focus ought to be objective rather than subjective: **the proper focus is not a subjective test of purpose but rather an objective question** of whether the planned activities are caught by the statutory language. **Taseko's statutory interpretation argument does not rely upon either of its dual purposes for the activities**. It argues that the activities are exploratory and thus not "in connection with the carrying out" of the project.<sup>49</sup>

The Court concluded that Taseko's argument was "plausible" and it was not "plain and obvious"<sup>50</sup> that this argument would fail – the stringent threshold for striking out a claim at a preliminary stage. The Court's conclusion is set out in the paragraph from the judgment that Mr. McManus (partially) quotes in his March 19 letter to the EAO:

Taseko's arguments are plausible. It is not plain and obvious to me that the difficulties in achieving a substantial start of the New Prosperity Project by January 2020 renders Taseko's petition unnecessary. **The parties disagree on the role and importance of the purpose of Taseko's planned activities in the proper construction of s. 6 of CEAA 2012**. It is not plain and obvious that Canada's submissions will prevail. In the result, I am not persuaded that Taseko's petition is either unnecessary or an abuse of process.<sup>51</sup>

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<sup>46</sup> *Taseko Mines Limited v Canada (Canadian Environmental Assessment Agency)*, 2018 BCSC 417, para 27.

<sup>47</sup> See above, para 28 (emphasis added).

<sup>48</sup> See above, para 28 (emphasis added).

<sup>49</sup> See above, para 29 (emphasis added).

<sup>50</sup> See above, para 30.

<sup>51</sup> See above, para 30 (emphasis added).

Contrary to Mr. McManus' suggestion, the Court did not consider the question of whether Taseko could possibly substantially start the project by January 2020. In fact, Taseko's own position was that this question was *immaterial* and that the subjective purpose of the Drilling Program was *irrelevant* when applying section 6 of *CEAA, 2012*. The Court concluded that it was not "plain and obvious" Taseko's argument on this point would fail.

In summary, the Court did not make any finding or decision on the question now before the EAO: whether it is reasonably possible for Taseko to substantially start the New Prosperity Project before the Certificate expires on January 14, 2020.

#### **F. Concluding remarks**

Based on Taseko's own direct and unequivocal evidence, filed in court proceedings, that it cannot meet the Deadline at this late stage, we submit that the only responsible option available to the EAO in the public interest is to refuse to amend the Certificate and terminate the Amendment Process. Taseko has not provided any credible submissions to the EAO in response to this issue that would justify departing from Taseko's own prior position on this question.

Thank you again for the opportunity to make submissions on this matter, and for your serious consideration of the issue. Please let me know if I can answer any questions or provide further information.

Sincerely,



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**J.P. Laplante**  
Mining, Oil and Gas Manager  
Tsilhqot'in National Government

cc. Tsilhqot'in Chiefs

## RE: Prosperity submissions re: substantial start

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**From:** Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>  
**To:** Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, charleneb@esketemc.ca, govadvisor@esketemc.ca, referrals@esketemc.ca, chief@canoecreekband.ca, stewardship@canoecreekband.ca, larryfletcher.hbfn@gmail.com, angie@hbfn.ca, ann.louie@williamslakeband.ca, Aaron.higginbottom@williamslakeband.ca, Rhonda.Leech@williamslakeband.ca, chief@xatsull.com, referrals@xatsull.com, judywilson@neskonlith.net, referrals@neskonlith.net  
**Cc:** Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>  
**Sent:** March 28, 2018 5:28:03 PM PDT  
**Attachments:** image003.jpg, revised March 23 letter to Kevin Jardine.pdf, image002.jpg, 2018 03 28 JPL - KJ SM Re TML Amendment Application.pdf

Good afternoon.

Following the process set out in EAO's letter of February 7, 2018, we received the attached reply submissions from Taseko and TNG.

If you have any questions, please let me know.

Regards,

Shelley Murphy

Executive Project Director

Phone: 778-698-9311



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**From:** Stockman, Fern P EAO:EX

**Sent:** Monday, March 19, 2018 3:05 PM

**To:** 'charleneb@esketemc.ca'; 'govadvisor@esketemc.ca'; 'referrals@esketemc.ca'; 'chief@canoecreekband.ca'; 'stewardship@canoecreekband.ca'; 'larryfletcher.hbfn@gmail.com'; 'angie@hbfn.ca'; 'ann.louie@williamslakeband.ca'; 'Aaron.higginbottom@williamslakeband.ca'; 'Rhonda.Leech@williamslakeband.ca'; 'chief@xatsull.com'; 'referrals@xatsull.com'; 'judywilson@neskonlith.net'; 'referrals@neskonlith.net'

**Cc:** Murphy, Shelley EAO:EX; Conder, Geoffrey EAO:EX; Harris, Jessica EAO:EX

**Subject:** Prosperity submissions re: substantial start

Good afternoon,

Attached please find the following recent correspondence and meeting notes regarding the Prosperity Project and Taseko's ability to substantially start the Prosperity Project and the appropriateness of refusing to amend the Certificate (as described in EAO's letter of February 7, 2018):

- Notes from February 26 meeting between EAO and Taseko
- March 19 EAO correspondence to Taseko
- March 19 Taseko correspondence to EAO

Regards,

Fern

**Fern Stockman** | Project Assessment Manager | BC Environmental Assessment Office

Phone #: 778 698-9313 | Mobile: 250-889-0417 | Fax: 250-387-9610 | [www.eao.gov.bc.ca](http://www.eao.gov.bc.ca)





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March 23, 2018

Mr. Kevin Jardine  
Associate Deputy Minister  
Province of British Columbia  
Environmental Assessment Office  
PO BOX 9426 STN PROV GOVT  
VICTORIA BC  
V8W 9V1


By email and hard copy *Revised*

Dear Mr. Jardine,

In recent days we have had the opportunity consider your March 9, 2018 determination that the Kitsault Mine has been "substantially started". This has been a very enlightening decision for us and is information that was not available to Scott Jones when he swore the affidavit that you have previously mentioned. As such, I am sending this letter as a follow-up to my letter of March 6, 2018.

While we appreciate that every case depends on its own facts, the Kitsault decision provides considerable guidance as to the amount of physical activity EAO would require in order to consider a metal mine "substantially started". This guidance allows us to more fully consider the path towards substantially starting the New Prosperity mine by January 2020. In this regard, we ask that you consider the following as you go about your stated intention to decide whether the New Prosperity certificate amendment process should be prematurely terminated (after being in your office nearly seven years).

1. The activities undertaken at the Kitsault project included 4.3 km of new road access, a bridge replacement, and approximately 60 ha of surface development including clearing, stripping, and stockpiling of 200,000 m<sup>3</sup> of materials. We have asked an established Williams Lake based contractor (Peterson Contracting Ltd.) to provide us with an estimate of the amount of similar work that could be completed within a three month timeframe at New Prosperity (see attached). The amount of work completed under this scenario would be significantly more than the Kitsault project. It is comprised of 1,550 ha of surface development including clearing and stripping 100% of the proposed area for the new access road, plantsite, stockpile areas, phase 1 of the open pit, the transmission corridor, main tailings embankment, and the year 2 footprint of the TSF. On such a basis, this would require work to start no later than November 2019.



2. In order to undertake construction, we would require a Mines Act construction permit. We believe an estimate of 6-9 months is reasonable for processing such an application, if government proceeded with reasonable effort and a willingness to make timely decisions. In this regard, we note that MEM already did considerable work on the Prosperity Mines Act construction permit, and we further note that MEM can (and does) issue partial construction permits (i.e. phased construction permits) in appropriate cases. We are reviewing the previous work done for permitting and we are preparing to approach MEM with a proposal to begin updating that file in anticipation of submitting a new Mines Act permit application. Using this estimate, we would need to enter the construction permitting phase in approximately February – April 2019. However, see point 4 below, we may be able to do that at a considerably earlier date.

3. In order to prepare for our construction permit application, we need to complete certain work under the Notice of Work issued by the province in 2017. We had originally planned to do that work over several years but in the current circumstance we would focus on only the work specifically required to be substantially started and we could complete that in the 2018 summer season. That is a reasonable target given that field work under the NoW could possibly commence as early as May – once the BC Supreme hearings regarding the Canadian Environmental Assessment Act, 2012 section 6 issue and the TNG injunction application have been heard. CEAA S. 6 hearings are scheduled for April 23/24, 2018 and the TNG injunction hearing has been tentatively set down for May 7-8, 2018.

4. Our engineering consultant has confirmed that they are able to perform data analysis and detailed engineering of the tailings storage facility and water management systems in parallel with the field work rather than sequentially following the field work program as was laid out in Mr. Jones affidavit. This is not a normal course approach however it would considerably shorten the time required, allowing for a new Mines Act construction permit application as early as the fall of this year. That would leave more than a year for MEM to review the application and perform necessary consultation and other permitting activities rather than the timeline given in point 2 above.

5. The outstanding Federal Court appeals will be heard this coming fall. It is reasonable to assume judicial decisions would be rendered in early 2019 and a federal reconsideration occurring in Spring or Summer 2019. This timing would not present any impediment starting construction in late 2019

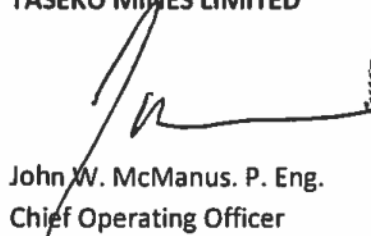
Obviously there are some contingencies in the above – e.g. Taseko must succeed in certain litigation and the Federal government must reconsider its decision. Similarly, there are additional potential bases for delay, such as if the construction permit were unduly delayed by government or if there was civil disobedience (as occurred in past). Such risks were alluded to by Mr. Jones when he swore his affidavit (e.g. at paragraph 130 he refers to government changing requirements). But while they may represent some risks to Taseko substantially starting the New Prosperity Project by January 2020, none are inevitable and none are things that you can assume will occur as you undertake your extraordinary determination as to whether the EAO should terminate the certificate amendment process prematurely.



Given all of the above, and in light of the additional guidance we have now been provided by your Kitsault decision, we submit there is no basis (legally or factually) for you to prematurely terminate our amendment application. As such we – once again - ask for a decision on the merits of our application forthwith, and continue to remind you that further unnecessary delays are potentially harmful to our company's interests.

Sincerely yours,

**TASEKO MINES LIMITED**

  
John W. McManus, P. Eng.  
Chief Operating Officer



Cc: Russell E. Hallbauer, P. Eng.

Shelley Murphy, BCEAO

## PETERSON CONTRACTING LTD.

4705 CATTLE DRIVE, WILLIAMS LAKE, BC V2G 5E8  
PHONE (250) 392-3292 FAX (250) 392-6676

Project Element	Feature	Pre-production Disturbance Required (ha) in 3? Months
Mine	Open Pit	50
	Waste Rock and Overburden Stockpile	50
	Ore Stockpile	40
	Soil Stockpiles	120
	Primary Crusher and Overland Conveyor	45
	Plant Site	40
	Tailings Storage Facility	500
	Site Haul Roads	75
Transmission Line		600
Access Road and Transportation Corridor		40
Concentrate Rail Load-Out Facility		0
<b>Total</b>		<b>1550</b>

### Estimated Timeline for clearing September 1st- Dec 1st

1550 ha divide by 2.5 ha per day = 620 clearing and piling days  
620 piling days divided 12 Cat D8 Cats c/w rippers, clearing, and angle blades = 52 days @ 10 hrs/day or 30 to 40 days @ 20hrs/day (not as efficient in dark)

Also requiring 2 more D8s and 2 330 size excavators to tend burning piles as piling progresses.

### Estimated Timeline for stripping

**North Area (pit, mill etc.) (assume 1 meter depth, add 40 Ha for haul roads on site):**

300 ha x 1 meter deep = 300,000 m3 divide by 60 days = 5000 m3/day/10 - 773 Cat trucks = 500 m3/day/23m3 per load = 21 loads per truck/day. This is reasonable.

**TSF Area (assume 1 meter depth, add 30 Ha for haul roads on site):**

530 ha x 1 meter deep = 530,000 m3 divide by 60 days = 8834 m3/day/15 - 773 Cat trucks = 589m3/day/23m3 per load = 26 loads per truck/day. This is reasonable.

Best regards,



Wayne Peterson, President  
Peterson Contracting Ltd  
(250) 392-3292 – Office  
(250) 398-0060 - Cell





## TŚILHQOT'IN NATIONAL GOVERNMENT

253 – 4<sup>th</sup> Avenue North ☐☐ Williams Lake, BC V2G 4T4 ☐☐ Phone (250) 392-3918 ☐☐ Fax (250) 398-5798

March 28, 2018

Environmental Assessment Office  
PO BOX 9426 STN PROV GOVT  
VICTORIA, BC  
V8W 9V1

**Attn:**

**Kevin Jardine**  
Associate Deputy

**Shelley Murphy**  
Executive Project Director

via email:

Kevin.Jardine@gov.bc.ca

shelley.murphy@gov.bc.ca

Dear Mr. Jardine and Ms. Murphy:

Thank you for the opportunity to reply to the submissions made by Taseko Mines Limited ("**Taseko**") in response to the Environmental Assessment Office's ("**EAO**") inquiry<sup>1</sup> into whether the EAO should refuse Taseko's application to amend the Prosperity Mine environmental assessment certificate ("**Certificate**") on the grounds that Taseko cannot meet the substantial start deadline of January 14, 2020 ("**Deadline**") and the Certificate will expire in any event.

These are the reply submissions of the Tsilhqot'in National Government (**TNG**). Put simply, Taseko's recent submissions to the EAO provide no credible reason to depart from the clear, unequivocal evidence of the company itself, in prior proceedings, that Taseko cannot possibly meet its substantial start deadline at this late stage.

There is no public interest in proceeding with a futile amendment process, or expending significant time and resources on reviewing amendments to a Certificate that is bound to expire in any event. The EAO can and should refuse to amend the Certificate and terminate this amendment process in the public interest.

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<sup>1</sup> See: Letter, K Jardine (EAO) to R Hallbauer (Taseko), Feb. 7, 2018.

**A. Taseko itself has confirmed that it cannot meet the substantial start deadline**

In his March 6 letter, Mr. McManus suggests that “nobody knows with complete certainty” whether Taseko can substantially start the New Prosperity project by January 2020.<sup>2</sup>

However, Taseko *itself* has confirmed with complete certainty that it cannot meet the Deadline. In an affidavit affirmed July 26, 2017, Scott Jones, Vice President Engineering, confirms this exact point – *explicitly, repeatedly and unequivocally*.

Mr. Jones affirmed his affidavit in response to injunction proceedings brought by the Tsilhqot’in Nation to enjoin Taseko’s proposed drilling program (“**Drilling Program**”).

In his affidavit, Mr. Jones provides extensive evidence to establish that *any delay* in commencing the Drilling Program would cause Taseko to not meet the Deadline and its Certificate to expire, at great expense and inconvenience for Taseko. In fact, the critical section of his affidavit on this point is titled, “**Delay Will Cause Taseko to not Meet Conditions of the Provincial Environmental Assessment Certificate**”.<sup>3</sup>

When Mr. Jones swore his affidavit, Taseko intended to start the Drilling Program as early as August 7, 2017.<sup>4</sup> With that start date in mind, Mr. Jones deposed:

... The current circumstances are such that **failure to immediately start the work** contemplated under the Notice of Work program will impact the critical path schedule to such an extent that I believe **Taseko will not be able to achieve substantial start of the Project by January 2020**.<sup>5</sup>

...

This leaves no room for error in Taseko’s anticipated time estimates for the 30% of the critical path schedule that are largely controlled by the Province ... There is also **no room for further movement in the 70% of the critical path schedule relating to work that is within Taseko’s control**.<sup>6</sup>

...

The timelines under the current critical path schedule **cannot be achieved if the Critical Data required for this analysis is not collected in 2017**.<sup>7</sup>

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<sup>2</sup> Letter, J McManus (Taseko) to K Jardine (EAO), March 6, 2018, p 3.

<sup>3</sup> Affidavit of Scott Jones, affirmed July 26, 2017 (“**Jones Affidavit**”), heading above para 103 (bold in original).

<sup>4</sup> Jones Affidavit, para 120 (emphasis added).

<sup>5</sup> Jones Affidavit, para 104 (emphasis added).

<sup>6</sup> Jones Affidavit, paras 111-12 (emphasis added).

<sup>7</sup> Jones Affidavit, para 126 (emphasis added).

...

Taseko has adjusted the Notice of Work program work schedule to defer as much work as possible to 2018. There is no ability to defer any further site investigation and data collection activities to 2018. **The remaining work planned for 2017 must proceed if Taseko is going to meet the January 2020 deadline under the Certificate.**<sup>8</sup>

...

In short, **if Taseko is delayed** in the commencement of its Notice of Work program and the work described above, **Taseko will suffer significant prejudice because the Certificate will lapse** and Taseko will be forced to incur significant time and expense to try to obtain a new certificate.<sup>9</sup>

...

Even if Taseko were able to achieve substantial start of the Project such that the Certificate did not lapse (which I do not think is possible if there is **any delay in commencing work**) ...<sup>10</sup>

Mr. Jones' testimony is clear, direct and unequivocal: "any delay in commencing work" would be fatal to meeting the substantial start deadline and the "work planned for 2017 must proceed if Taseko is going to meet the January 2020 deadline under the Certificate".<sup>11</sup>

As matters unfolded, Taseko did not undertake the work planned for 2017. The injunction hearings were adjourned when Taseko agreed not to proceed with the Drilling Program pending resolution the Canadian Environmental Assessment Agency's ("CEAA") position that the Drilling Program violated section 6 of the *Canadian Environmental Assessment Act, 2012*. That litigation is currently scheduled to be heard on April 23-24. The Tsilhqot'in Nation has set down court dates on May 7-8 to renew its injunction application in the event CEAA is unsuccessful and Taseko elects to proceed with the Drilling Program.

As a result, Taseko has no prospect of starting the Drilling Program (even if successful in the related litigation) until some **9 months** after it avowed "any delay" would be fatal to achieving the substantial start deadline.<sup>12</sup> We are now 8 months and counting since Mr. Jones affirmed that "failure to **immediately start** the work contemplated under the Notice of Work program will impact the critical path schedule to such an extent that I believe Taseko will not be able to achieve substantial start of the Project by January 2020".<sup>13</sup>

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<sup>8</sup> Jones Affidavit, para 128 (emphasis added).

<sup>9</sup> Jones Affidavit, para 132 (emphasis added).

<sup>10</sup> Jones Affidavit, para 134 (emphasis added).

<sup>11</sup> Jones Affidavit, paras 134; 128.

<sup>12</sup> Jones Affidavit, para 134.

<sup>13</sup> Jones Affidavit, para 104 (emphasis added).

Taseko's own evidence could not be clearer on this point: Taseko *cannot* meet the Deadline at this late stage and its Certificate *will* expire in any event.

## **B. Taseko's latest revised timeline is not credible**

In recent correspondence to the EAO,<sup>14</sup> Taseko purports to set out a new timetable for achieving a substantial start by January 2020, wholly contradicting its position in court during the injunction proceedings and the direct evidence of Mr. Jones—its own Vice President, Engineering.

Taseko's efforts to revise its Critical Path Schedule – yet again – to suit its interests in the moment are simply not credible and should be given no weight.

This is now the *third* time Taseko has provided decision-makers (regulatory or judicial) with a different timeline for substantial start. Taseko first submitted its "Critical Path to Demonstration of Substantial Start"<sup>15</sup> to the Statutory Decision-Maker in December 2016.<sup>16</sup> This original Critical Path targeted the start of the Drilling Program in January 2017. Mr. Jones deposed, "[a]n early January 2017 start date was chosen because that date would enable an **aggressive but achievable** schedule to complete the necessary work in the requisite time frame".<sup>17</sup>

However, the Drilling Program was not approved until July 2017 – some six months after Taseko had planned to start the Drilling Program to maintain its Critical Path.<sup>18</sup> As a result, Taseko had to revise its "aggressive but achievable" Critical Path. As described by Mr. Jones in his July 2017 affidavit,

As approval of the Notice of Work program was not issued until mid-July 2017, **Taseko has adjusted the critical path to defer all non-critical items** but significant work must still be done in 2017 to achieve substantial start of construction of the Project by January 2020 as required under the Certificate.<sup>19</sup>

As noted above, Mr. Jones confirmed repeatedly that the Revised Critical Path left no room for any further delay:

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<sup>14</sup> See: Letter, J McManus (Taseko) to K Jardine (EAO), March 21, 2018.

<sup>15</sup> Jones Affidavit, Exhibit 44. Note that this is the only graphic depiction provided by Taseko of its substantial start schedule, showing how much time is allocated to each critical path activity. Taseko has provided written assertions that it can compress this timetable in the Jones Affidavit and again to the EAO in Mr. McManus' recent March 23 letter, but those latter documents do not provide an updated table showing critical path activities.

<sup>16</sup> Jones Affidavit, para 69.

<sup>17</sup> Jones Affidavit, para 113. Note that even on this initial schedule, the Critical Path states, "[n]o allowance for potential delays has been included (eg. weather and/or wildlife window restrictions or other unforeseen circumstances)": Jones Affidavit, Exhibit 44.

<sup>18</sup> Jones Affidavit, para 115.

<sup>19</sup> Jones Affidavit, para 71 (emphasis added).

- He described “no room for error”<sup>20</sup> in the 30% of the schedule within the control of the Province (in fact, he cautioned that the schedule “already reflected an optimistic view of time required by the provincial government ... and efforts to condense the time estimates allocated to those steps will not be successful”).<sup>21</sup>
- He stated without qualification that [t]here is also **no room for further movement** in the 70% of the critical path schedule relating to work that is within Taseko’s control”.<sup>22</sup> In other words, “Taseko has adjusted the Notice of Work program schedule to defer as much work as possible to 2018. There is **no ability to defer** any further site investigation and data collection activities to 2018”.<sup>23</sup>

Taseko fully argued the injunction hearings in early August 2017 on the basis of this evidence.

It is entirely self-serving, and defies credulity, for Taseko to now argue that it has revised its Critical Path *yet again* and found at least 9 months of additional time savings (out of a 29 month Substantial Start schedule)<sup>24</sup> after directly arguing in court proceedings last August that there was “no room for further movement”, “no ability to defer” the Drilling Program any longer, and that “any delay” or “failure to immediately start” the Drilling Program would be fatal to meeting the Deadline.

Mr. McManus tries to explain this latest revised timeline from Taseko by reference to the recent EAO substantial start determination for Kitsault Mine.<sup>25</sup> He argues that this “very enlightening” determination was not available to Mr. Jones when he affirmed his affidavit, and has allowed Taseko to “more fully consider the path towards substantially starting the New Prosperity Mine by January 2020”.<sup>26</sup>

This position is transparently false. There is nothing in the Kitsault Mine determination that indicates a lower threshold for substantial start than the EAO’s previous guidance and decisions. In fact, the physical work described by Mr. McManus in his March 23 letter would fail to meet the substantial start threshold set out in the Kitsault Mine decision, in any event.

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<sup>20</sup> Jones Affidavit, para 111.

<sup>21</sup> Jones Affidavit, para 129.

<sup>22</sup> Jones Affidavit, para 112 (emphasis added).

<sup>23</sup> Jones Affidavit, para 128.

<sup>24</sup> Calculating that the revised Critical Path in Mr. Jones’ Affidavit covers approximately 29 months from the anticipated start date of August 7, 2017 to the January 14, 2020 deadline.

<sup>25</sup> Letter, J McManus (TML) to K Jardine (EAO), March 23, 2018; Kevin Jardine, Associate Deputy Minister, Environmental Assessment Office, *Reasons for Associate Deputy Minister Determination*, In the matter of the Environmental Assessment Act S.B.C. 2002, c 43 and In the matter of a Substantially Started Determination under Section 18(5) of the Act for the Kitsault Mine Project of Avanti Kitsault Mine Ltd. (9 March 2018).

<sup>26</sup> Letter, J McManus (TML) to K Jardine (EAO), March 23, 2018, p 1.

Mr. McManus relies on contractor Peterson Contracting Ltd.'s estimate that it can complete 1,550 ha of surface development, "including clearing and stripping 100% of the proposed area for the new access road, plantsite, stockpile areas, phase 1 of the open pit, the transmission corridor, main tailing embankment, and the year 2 footprint of the TSF," in a three month timeframe ("**Work Plan**"). Mr. McManus states that this is "significantly more" work than the activities undertaken at the Kitsault Mine project that provided the basis for the EAO's positive substantial start determination.

This assertion is incorrect. Mr. McManus fails to consider, or even mention, the EAO's reliance on significant construction work completed at the Kitsault Mine far beyond the surface clearing proposed by Taseko in the Work Plan.

At Kitsault Mine, the proponent had completed substantial construction activity, including construction of 4.3 km of new access roads and a significant bridge replacement, in addition to surface development. The proponent had also installed water management infrastructure at Kitsault Mine, stabilized disturbed land surfaces associated with the new access roads, and completed construction of several infrastructure and ancillary facilities such as a wastewater treatment plant.

In the Kitsault decision, the EAO confirmed that surface development activities "may not be as significant as the construction of physical buildings, structures or roads". The EAO found that Kitsault Mine achieved substantial start, but based this determination on the "physical activity undertaken on the various components of the Project, taken together," and cautioned: "While the work on any one component of the Project **may not stand out, all the physical activity considered cumulatively** constitutes a Project that is substantially started; **albeit, in my view, not by a large margin.**"

By contrast, Taseko's Work Plan is limited to stripping and clearing surface development, with no construction of physical buildings, structures, or roads. If anything, the Kitsault decision reinforces the conclusion that Taseko *cannot* substantially start the New Prosperity project by January 2020. The EAO has never made a positive substantial start determination for a mine in the absence of physical buildings, structures, or roads.<sup>27</sup>

More fundamentally, there is no merit to Taseko's suggestion that the Kitsault Mine determination somehow changed the substantial start threshold as it stood when Mr. Jones affirmed his affidavit, so as to justify significantly revising a Critical Path that "left no further room for movement".<sup>28</sup> The Kitsault Mine determination is not a credible reason to depart from Mr. Jones' clear affidavit evidence.

The EAO should give no weight to Taseko's latest efforts to revise its Critical Path in its March 23 letter. Presented with conflicting evidence from Taseko itself on whether it can meet the Deadline, the EAO *can* and *should* prefer the clear and cogent evidence of Mr.

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<sup>27</sup> See the EAO substantial start determinations for the Brucejack Gold Mine, Red Chris Porphyry Copper-Gold Mine, Roman Coal Mine, Ruby Creek Molybdenum mine, and Tulsequah Chief Mine.

<sup>28</sup> Jones Affidavit, para 112.



Jones, affirmed under oath, as Vice President Engineering, speaking directly to this issue. Taseko's assertions in the March 23 letter, by contrast, are self-serving and clearly fashioned to advance the immediate interests of the company.

### C. The Deadline cannot be extended beyond January 14, 2020

Taseko also asserts, for the first time, that the January 14, 2020 Deadline is not final, but rather can be extended under s. 24(4) of the *EAA*.<sup>29</sup>

In its March 19, 2018 letter to Taseko, the EAO rejected Taseko's assertion:

Section 24 of the Act has no application to section 18 . . . Section 24 cannot be used to further extend the duration of a Certificate. The EAO is of the view that there is no mechanism under the Act to further extend the duration of the Certificate for the Project.<sup>30</sup>

We fully agree with the EAO's position. Taseko cannot extend the Deadline under s. 24(4) – it is final.

Under s. 18(4) of the *EAA* proponents may receive a one-time only certificate extension, for no more than five years. Taseko has already received this one-time only extension. Section 18(5) of the *EAA* makes it clear that a certificate will expire if the proponent has not substantially started the project by either its original or extended certificate deadline.

Directly relevant case law, EAO policy, and Taseko's own correspondence underscores the finality of Taseko's extension.

In *Taku River Tlingit First Nation v British Columbia (Minister of Environment)*, the BC Supreme Court discusses a mining company's *EAA* certificate extension process and states "[s]ection 18(4) allows **only a single extension**, and **then for no more than five years**."<sup>31</sup> The Court also emphasizes that section 18 as a whole "shows how time-sensitive the legislature is about environmental approvals."<sup>32</sup>

The EAO's User Guide (January 2018) further affirms the finality of Taseko's extension. This guidance document states:

If a project will not be substantially started by the certificate deadline, a certificate holder may apply for a **one-time extension** of the certificate for a period of up to

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<sup>29</sup> See: Letter, J McManus (Taseko) to K Jardine (EAO), March 6, 2018, at page 3, point #5.

<sup>30</sup> See: Letter, K Jardine (EAO) to J McManus (Taseko), March 19, 2018, at page 2.

<sup>31</sup> 2014 BCSC 1278, para 19 (emphasis added).

<sup>32</sup> See para 19.

five years. . . If a certificate extension is granted, the project must be substantially started by the new deadline **or the certificate expires**.<sup>33</sup>

Finally, Taseko itself has acknowledged the deadline is final. For example, in a July 19, 2016 letter, Mr. Hallbauer (President, Taseko) states:

“Finally, we are deeply disturbed by the fact that the EAO knows full well that our certificate expires if construction has not started by January 2020 and **cannot be extended again** (even if and as the federal court litigation results in federal approvals being obtained).”<sup>34</sup>

#### **D. The EAO can and should terminate the Amendment Process**

Taseko asserts that there is no valid reason for the EAO to refuse its amendment application.<sup>35</sup>

There is a valid and important reason – the Amendment Process serves no utility. Taseko’s own evidence shows that it will not be able to substantially start its Project before the Certificate expires in January 2020.<sup>36</sup> There is no point to continuing this Amendment Process. It would require the EAO to expend significant effort and expense for a Certificate that is certain to expire.

As a general rule, an administrative agency is a “master of its own procedure.”<sup>37</sup> An administrative body is fully entitled to terminate a futile application process provided, as here, the applicant has had the opportunity to address this potential termination, including by written submissions.<sup>38</sup>

Further, the EAO has discretion to terminate the Amendment Process on the basis of *mootness*, where the simple evolution of circumstances resolves the main controversy between parties.<sup>39</sup> When a matter is moot, its continuation may be considered an abuse of process because it would be a waste of the decision-maker’s time.<sup>40</sup>

Agencies have the authority to dismiss matters as moot.<sup>41</sup> For example, in *BSA Diagnostics* the Ontario Divisional Court held that “the ability to dismiss proceedings as moot is

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<sup>33</sup> EAO User Guide (January 2018), p 20. The EAO “Guide to Substantially Started Determinations” (January 2017) and “Requesting a Certificate Extension” (April 2016) guidance documents express the same concept (pp 4 and 3, respectively).

<sup>34</sup> See: Letter, R Hallbauer (Taseko) to R Fyfe and K Jardine (EAO), July 19, 2016, as excerpted in Attachment A, page 10 of Letter, J McManus (Taseko) to K Jardine (EAO), March 6, 2018 (emphasis added).

<sup>35</sup> See: Letter, J McManus (Taseko) to K Jardine (EAO), March 6, 2018, at page 4.

<sup>36</sup> See: Letter, J Nelson (TNG) to K Jardine and S Murphy (EAO), January 8, 2018.

<sup>37</sup> Robert W. Macauley & James L.H. Sprague, *Practice and Procedure Before Administrative Tribunals*, (Canada: Thomson Reuters, 2017) (loose-leaf) vol 2 at 9-1 [Macauley & Sprague].

<sup>38</sup> See, e.g.: *Mobil Oil Canada Ltd. v Canada-Newfoundland Offshore Petroleum Board*, [1994] 1 SCR 202.

<sup>39</sup> Macauley & Sprague, above, at 12-141.

<sup>40</sup> See above at 12-142.

<sup>41</sup> See Macauley & Sprague, above, at 12-142, “Absent some legislative direction to the contrary an agency likely has the authority to dismiss a matter as being moot.”

inherent to an agency's ability to control its own process."<sup>42</sup> *BSA Diagnostics* supports the proposition that circumstances outside of an administrative hearing process can render an administrative agency's decision moot, and one factor supporting mootness is that the administrative agency's decision will not change the outcome for the party bringing the appeal. Similarly, in this case, circumstances outside the Amendment Process have rendered it moot, and the outcome of the EAO Amendment Process will not change the ultimate outcome for Taseko – Taseko will not be able to use its Certificate, whether amended or not, because it is bound to expire before Taseko can substantially start the Project.

Finally, the EAO clearly has the authority to *refuse* Taseko's application to amend its Certificate,<sup>43</sup> and there is no reason why the EAO cannot exercise this authority on the grounds that no utility or public interest is served by granting an amendment to a Certificate that will expire in any event.

To summarize, the EAO can and should refuse the application to amend and terminate the Amendment Process. This is the only reasonable and fair course of action given the futility of the process.

#### **E. *Taseko Mines Limited v Canada* has no bearing on the EAO's decision**

On March 19, 2018, Taseko brought the above decision<sup>44</sup> to the attention of the EAO, especially part of paragraph 30, which reads "[i]t is not plain and obvious to me that the difficulties in achieving a substantial start of the New Prosperity Project by January 2020 renders Taseko's petition unnecessary."<sup>45</sup>

Taseko suggests that the Court, in making this statement, was speaking to the possibility of Taseko substantially starting the project. In reality, as discussed below, the Court did *not* consider, and did *not* speak to, the question of whether Taseko could substantially start the project by the Deadline. In fact, Taseko itself argued that this question was irrelevant. What the Court actually concluded was that—*whether or not* Taseko could substantially start the project by Deadline—Taseko's legal argument respecting section 6 of *CEAA, 2012* was not bound to fail and should not be struck out at this preliminary stage.

The Court was considering an application by Canada to strike Taseko's petition in B.C. Supreme Court seeking a declaration that s. 6 of *CEAA 2012* does not apply to the Drilling Program. Canada argued, in part, that the matter was exclusively within the jurisdiction of the Federal Court (not B.C. Supreme Court) and that at any rate it was unnecessary in light of Canada's injunction application in relation to the Drilling Program, where Canada said the same essential issues would be canvassed.

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<sup>42</sup> *B.S.A. Diagnostics Ltd. v Ontario (Attorney General)*, 2014 ONSC 6054, at para 39.

<sup>43</sup> *EAA*, s 19(3)(b).

<sup>44</sup> *Taseko Mines Limited v Canada (Canadian Environmental Assessment Agency)*, 2018 BCSC 417.

<sup>45</sup> See: Letter, J McManus (TML) to K Jardine (EAO), March 19, 2018, at p 1.

Critically, Canada also argued that Taseko's petition was unnecessary because "it is overwhelmingly likely that Taseko will have to undergo a new provincial environmental assessment process and Taseko therefore seeks relief that would serve no useful purpose".<sup>46</sup>

Taseko's response was that it has "two reasons to obtain data from its planned activities [i.e. the Drilling Program]: (1) to continue to pursue the New Prosperity Project (the rejection of which is subject to judicial review appeals); and (2) **for use in a potential refined or revised project design**".<sup>47</sup> Since the latter purpose is unrelated to the current New Prosperity project, Taseko argued that its Petition would still be necessary *whether or not* it could meet the substantial start deadline for that project:

**In light of its dual purposes** for data acquisition from the planned activities, Taseko submits that any difficulties in substantially starting the New Prosperity Project by January 2020 does not determine whether the petition is unnecessary.<sup>48</sup>

Taseko argued that the *purpose* of the Drilling Program was irrelevant to the interpretation of s. 6 of *CEAA, 2012*:

It submits that when construing s. 6, the focus ought to be objective rather than subjective: **the proper focus is not a subjective test of purpose but rather an objective question** of whether the planned activities are caught by the statutory language. **Taseko's statutory interpretation argument does not rely upon either of its dual purposes for the activities.** It argues that the activities are exploratory and thus not "in connection with the carrying out" of the project.<sup>49</sup>

The Court concluded that Taseko's argument was "plausible" and it was not "plain and obvious"<sup>50</sup> that this argument would fail – the stringent threshold for striking out a claim at a preliminary stage. The Court's conclusion is set out in the paragraph from the judgment that Mr. McManus (partially) quotes in his March 19 letter to the EAO:

Taseko's arguments are plausible. It is not plain and obvious to me that the difficulties in achieving a substantial start of the New Prosperity Project by January 2020 renders Taseko's petition unnecessary. **The parties disagree on the role and importance of the purpose of Taseko's planned activities in the proper construction of s. 6 of CEAA 2012.** It is not plain and obvious that Canada's submissions will prevail. In the result, I am not persuaded that Taseko's petition is either unnecessary or an abuse of process.<sup>51</sup>

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<sup>46</sup> *Taseko Mines Limited v Canada (Canadian Environmental Assessment Agency)*, 2018 BCSC 417, para 27.

<sup>47</sup> See above, para 28 (emphasis added).

<sup>48</sup> See above, para 28 (emphasis added).

<sup>49</sup> See above, para 29 (emphasis added).

<sup>50</sup> See above, para 30.

<sup>51</sup> See above, para 30 (emphasis added).

Contrary to Mr. McManus' suggestion, the Court did not consider the question of whether Taseko could possibly substantially start the project by January 2020. In fact, Taseko's own position was that this question was *immaterial* and that the subjective purpose of the Drilling Program was *irrelevant* when applying section 6 of *CEAA, 2012*. The Court concluded that it was not "plain and obvious" Taseko's argument on this point would fail.

In summary, the Court did not make any finding or decision on the question now before the EAO: whether it is reasonably possible for Taseko to substantially start the New Prosperity Project before the Certificate expires on January 14, 2020.

#### **F. Concluding remarks**

Based on Taseko's own direct and unequivocal evidence, filed in court proceedings, that it cannot meet the Deadline at this late stage, we submit that the only responsible option available to the EAO in the public interest is to refuse to amend the Certificate and terminate the Amendment Process. Taseko has not provided any credible submissions to the EAO in response to this issue that would justify departing from Taseko's own prior position on this question.

Thank you again for the opportunity to make submissions on this matter, and for your serious consideration of the issue. Please let me know if I can answer any questions or provide further information.

Sincerely,



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**J.P. Laplante**  
Mining, Oil and Gas Manager  
Tsilhqot'in National Government

cc. Tsilhqot'in Chiefs

## Re: Letter from TNG to EAO re Certificate Amendment Process

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From: John W. McManus <JMcManus@tasekomines.com>  
To: Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Russell E. Hallbauer <RHallbauer@tasekomines.com>  
Cc: Scott Jones <SJones@tasekomines.com>, Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, Conder, Geoffrey EAO:EX <Geoffrey.Conder@gov.bc.ca>  
Sent: March 29, 2018 8:59:20 AM PDT

OK thanks Shelley. We've got it.

John.

Sent from my BlackBerry 10 smartphone on the Rogers network.

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**From:** Murphy, Shelley EAO:EX  
**Sent:** Wednesday, March 28, 2018 5:09 PM  
**To:** John W. McManus; Russell E. Hallbauer  
**Cc:** Scott Jones; Stockman, Fern P EAO:EX; Harris, Jessica EAO:EX; Conder, Geoffrey EAO:EX  
**Subject:** FW: Letter from TNG to EAO re Certificate Amendment Process

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Please find attached the submission we received from TNG.

Regards

Shelley

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**From:** J.P. Laplante [mailto:jlaplante@tsilhqotin.ca]  
**Sent:** Wednesday, March 28, 2018 6:35 AM  
**To:** Jardine, Kevin EAO:EX; Murphy, Shelley EAO:EX  
**Cc:** Jay Nelson (jay@jaynelsonlaw.com)  
**Subject:** Letter from TNG to EAO re Certificate Amendment Process

Dear Kevin and Shelley,

Please find attached a letter from TNG to the EAO regarding your inquiry into whether the EAO should refuse TML's application to amend the Prosperity Mine EA Certificate on the grounds that TML cannot meet the substantial start deadline.

Regards,

JP

J.P. Laplante

Mining, Oil and Gas Manager

Tsilhqot'in National Government

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Page 147 of 478 to/à Page 158 of 478

Withheld pursuant to/removed as

s.13 ; s.14

## RE: in a bit late this am

---

From: Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>  
To: Robinson, Tiffany EAO:EX <Tiffany.Robinson@gov.bc.ca>, Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>  
Sent: January 10, 2020 8:08:39 AM PST  
Attachments: image001.png

Thanks

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: "Murphy, Shelley EAO:EX" <Shelley.Murphy@gov.bc.ca>

Date: 2020-01-10 8:01 a.m. (GMT-08:00)

To: "Bailey, Scott EAO:EX" <Scott.Bailey@gov.bc.ca>, "Robinson, Tiffany EAO:EX" <Tiffany.Robinson@gov.bc.ca>, "Warner, Jessica EAO:EX" <Jessica.Warner@gov.bc.ca>

Subject: in a bit late this am

Working on getting some comments to the team on the prosperity docs this am and started this am from home, so am going to complete and then come in. Will be in before our HVC check in

**SHELLEY MURPHY**

Executive Project Director

Environmental Assessment Office

Government of British Columbia

OFFICE: 778-698-9311

MOBILE: 250-360-7802

**EAO** | Environmental  
Assessment Office

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## Prosperity Certificate Extension

---

From: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>  
To: abrooks@tasekomines.com, tdickson@jfkllaw.ca  
Cc: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, chief@tsideldel.org, kordaroy1955@gmail.com, tsilhqotin.seniya@gmail.com, chiefjoe@tletincox.ca, chieflaceese@gmail.com, jimmyj@gmail.com, russmyers71@gmail.com, jay@jaynelsonlaw.com, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca  
Sent: January 13, 2020 3:50:20 PM PST  
Attachments: image001.png, Prosperity - Letter to Taseko and TN Regarding Certificate Extension - 20200113.pdf, Prosperity - Order - Certificate Extension - 20200113.pdf

Dear Stuart McDonald and Tim Dickson,

Please find the attached correspondence regarding the request that the Prosperity-Gold Copper Project Environmental Assessment Certificate #M09-02 be extended for 12 months.

Regards,  
Fern

**FERN STOCKMAN**  
Project Assessment Director  
Environmental Assessment Office  
Government of British Columbia  
OFFICE: 778-698-9313  
MOBILE: 250-889-0417



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Reference: 354987

January 13, 2020

**SENT VIA EMAIL**

Stuart McDonald  
President  
Taseko Mines Limited  
1500-1040 West Georgia Street  
Vancouver BC V6E 4H1  
c/o [abrooks@tasekomines.com](mailto:abrooks@tasekomines.com)

Tim Dickson  
Counsel for the T̓silhqot'in Nation  
JFK Law Corporation  
340-1122 Mainland Street  
Vancouver BC V6B 5L1  
[tdickson@jfkclaw.ca](mailto:tdickson@jfkclaw.ca)

Dear Stuart McDonald and Tim Dickson:

I am writing further to the EAO's letter of December 13, 2019 regarding the request that the Prosperity-Gold Copper Project (Prosperity) Environmental Assessment Certificate #M09-02 (Certificate) be extended for 12 months to allow Taseko Mines Ltd. (Taseko) and the T̓silhqot'in Nation time to engage in a facilitated process aimed at exploring a long-term resolution to the issues between them relating to Prosperity, acknowledging Taseko's commercial interests and T̓silhqot'in opposition to Prosperity.

On January 13, 2020, after reviewing the extension request and the reason provided, the Chief Executive Assessment Officer has decided to extend the deadline specified in the Certificate to January 14, 2021. I enclose an extension Order under Section 31 of the *Environmental Assessment Act*, 2018 (Act). Please note that with the extension the Certificate expiry date is now January 14, 2021.

Further details including the Environmental Assessment Office (EAO)'s report on the review of an Application for a Certificate Extension and the Chief Executive Assessment Officer's Reasons for Decision are available on EAO's Electronic Project Information Centre website here:

...2

---

**Environmental  
Assessment  
Office**

Office of the  
Associate  
Deputy Minister

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
2<sup>nd</sup> Fl – 836 Yates St  
Victoria BC V8W 1L8

<https://projects.eao.gov.bc.ca/p/58850ff6aaecd9001b808f88/documents;currentPage=1;pageSize=10;sortBy=-datePosted;ms=1578949231114>.

As noted would occur in EAO's December 13, 2019 letter, the EAO has consulted with Indigenous nations that could be impacted by the requested extension. None of the nations that responded objected to the extension. However, in their response, Esk'etemc requested a seat at the facilitated process. Esk'etemc requested to be a participant or at the very least, have observer status with an option to comment when discussions focus on areas of shared territory. The EAO is not a party in this process; however, I inform Taseko and the Tsilhqot'in Nation of Esk'etemc's request for your consideration.

Yours truly,



Fern Stockman  
Project Assessment Director

Attachment (1)

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Chief Otis Guichon Sr.  
Alexis Creek First Nation | Tsideldel  
[chief@tsideldel.org](mailto:chief@tsideldel.org)

Chief Roy Stump  
?Esdilagh First Nation  
[kordaroy1955@gmail.com](mailto:kordaroy1955@gmail.com); [tsilhqotin.seniya@gmail.com](mailto:tsilhqotin.seniya@gmail.com)

Chief Joe Alphonse  
Tl'etinqox Government  
[chiefjoe@tletinqox.ca](mailto:chiefjoe@tletinqox.ca)

Chief Francis Laceese  
Toosey First Nation

[chieflaceese@gmail.com](mailto:chieflaceese@gmail.com)

...3

Chief Jimmy Lulua  
Xeni Gwet'in First Nations Government  
[jimmyj@gmail.com](mailto:jimmyj@gmail.com)

Chief Russel Myers Ross  
Yunesit'in Government  
[russmyers71@gmail.com](mailto:russmyers71@gmail.com)

Jay Nelson, Barrister & Solicitor  
[jay@jaynelsonlaw.com](mailto:jay@jaynelsonlaw.com)

Jenny Philbrick, Executive Director, T̓silhqot'in National Government  
[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

J.P. Laplante, Oil and Gas Manager, T̓silhqot'in National Government Mining  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Luke Doxtator, Stewardship Manager, T̓silhqot'in National Government  
[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

**IN THE MATTER OF  
THE *ENVIRONMENTAL ASSESSMENT ACT*, S.B.C. 2018, c. 51 [ACT (2018)]  
  
AND  
  
AN APPLICATION TO EXTEND ENVIRONMENTAL ASSESSMENT CERTIFICATE  
# M09-02  
(CERTIFICATE)  
  
BY  
TASEKO MINES LIMITED  
  
FOR THE  
  
PROSPERITY GOLD-COPPER PROJECT  
(PROJECT)  
  
EXTENSION UNDER SECTION 31**

**WHEREAS:**

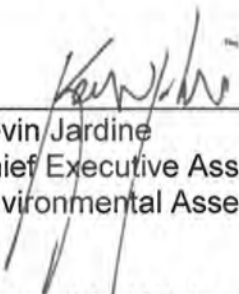
- A. Under the Certificate issued to Taseko Mines Ltd. (Certificate Holder) on January 14, 2010, the Ministers required the Certificate Holder to substantially start the Project by January 14, 2015, failing which the Certificate would expire.
- B. On January 13, 2015, the Certificate was extended under Section 18(2) of the *Environmental Assessment Act*, SBC 2002, c.43 [Act (2002)] until January 14, 2020.
- C. On December 12, 2019, the Certificate Holder applied to the Minister of the Environment and Climate Change Strategy and the Chief Executive Assessment Officer for a 12-month extension of this date under Section 31(2) of the Act (2018).
- D. Under Section 31(4) of the Act (2018), the Chief Executive Assessment Officer may extend the deadline specified in the Certificate, on one occasion only, for not more than five years.
- E. On December 19, 2019, a regulation under Section 77(2)(h) of the Act (2018) was deposited (the Exemption Regulation No. 2), specifying that the provision of

the Act (2018) that limits extensions to "one occasion only" does not apply to this Certificate if the deadline is not extended beyond January 14, 2021.

- F. I have fully considered the reasons in the Certificate Holder's application and input received from Indigenous nations.

**NOW THEREFORE:**

Pursuant to Section 31(4) of the Act (2018), I extend the date specified in the Certificate by which Taseko Mines Limited must have substantially started the Project to January 14, 2021.



---

Kevin Jardine  
Chief Executive Assessment Officer  
Environmental Assessment Office

Issued this 13<sup>th</sup> day of January, 2020

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Withheld pursuant to/removed as

s.13 ; s.14

## RE: To Do List - Jan 14

---

From: Bailey, Scott EAO:EX  
s.15  
To: Robinson, Tiffany EAO:EX <Tiffany.Robinson@gov.bc.ca>  
Sent: January 15, 2020 1:10:46 PM PST  
Attachments: image001.png

I am good with Prosperity (please send from my email), but I do not think the Wolverine one is technically accurate. I'd like to ask the project team when they return about it – I think we accepted their application for an amendment months ago, but they have just submitted their assessment – sounds like a nuance, but is important.

Thanks

---

**From:** Robinson, Tiffany EAO:EX <Tiffany.Robinson@gov.bc.ca>  
**Sent:** January 15, 2020 1:07 PM  
**To:** Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>  
**Subject:** FW: To Do List - Jan 14  
Milestone bullets attached.

---

**From:** Robinson, Tiffany EAO:EX  
**Sent:** January 14, 2020 9:22 AM  
**To:** Bailey, Scott EAO:EX <[Scott.Bailey@gov.bc.ca](mailto:Scott.Bailey@gov.bc.ca)>  
**Subject:** To Do List - Jan 14

Hi Scott,

Since we will be in All Staff I attached the higher priority items for you today. Hoping this is helpful for you.

- Milestone Bullets for Prosperity
- Milestone Bullets for Wolverine
- Minister's Office Correspondence – deadline today

Best,

**TIFFANY ROBINSON**

Executive Administrative Assistant to Assistant Deputy Minister Scott Bailey  
Environmental Assessment Office  
Government of British Columbia  
OFFICE: 250 419-8639



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## EA Milestone Update: Prosperity Gold-Copper Project

From: Bailey, Scott EAO:EX  
s.15

To: Sather, Kelly ENV:EX<sup>s.15</sup>  
s.15

Cc: Reamick ENV:EX<sup>s.15</sup>, Milne, Gala ENV:EX <Gala.Milne@gov.bc.ca>  
Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, McLaughlin, Christine  
EAO:EX <Christine.McLaughlin@gov.bc.ca>, Robinson, Tiffany EAO:EX  
s.15

, Stockman, Fern P EAO:EX (Fern.Stockman@gov.bc.ca)  
s.15  
EAO:EX (Kevin.Jardine@gov.bc.ca) <Kevin.Jardine@gov.bc.ca>

Sent: January 15, 2020 1:27:23 PM PST

Attachments: image001.png

Good afternoon,

Below is an EA milestone update for the Prosperity Gold-Copper project.

Many thanks,

**SCOTT BAILEY**

Assistant Deputy Minister

Environmental Assessment Office

Government of British Columbia

OFFICE: 250-387-2307

MOBILE: 250-886-0853



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### **Prosperity Gold-Copper Project (Kevin Jardine, Chief Executive Assessment Officer and Associate Deputy Minister, Environmental Assessment Office)**

On January 13, 2020, the EAO issued a 12-month certificate extension under Section 31(4) of the *Environmental Assessment Act*, 2018 (the Act), to Taseko Mines Ltd. (Taseko) for the Prosperity Gold-Copper Project (Prosperity). Taseko requested a 12-month extension jointly with the T̓silhqot'in Nation (collectively, the Parties) in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity. In the absence of the extension, the Certificate would have expired on January 14, 2020.

This third extension to the Certificate was enabled by a regulation under Section 77(2)(h) of the Act, deposited on December 19, 2019 (the Exemption Regulation No. 2), that allows the Chief Executive Assessment Officer of the EAO to extend the duration of the Certificate as requested by the Parties, for a period of up to 12 months. With the extension, the Certificate expiry date is now January 14, 2021.

Prosperity would consist of a large open pit gold-copper mine located 125 km southwest of Williams Lake in South Central British Columbia.

<i>Section of the Act</i>	<i>Definition</i>
31(4)	Duration of an Environmental Assessment Certificate

## **RE: notes for possible milestone note on prosperity**

---

From: Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>  
To: Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>  
Sent: January 20, 2020 2:23:18 PM PST  
Attachments: image002.png

Thanks. I will work with this. Many thanks!

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: "Murphy, Shelley EAO:EX" <Shelley.Murphy@gov.bc.ca>

Date: 2020-01-20 2:21 p.m. (GMT-08:00)

To: "Bailey, Scott EAO:EX" <Scott.Bailey@gov.bc.ca>

Subject: notes for possible milestone note on prosperity

Hi Scott. You asked me to give you some input for a milestone note on Prosperity. I have found that a bit challenging to sum up in a few sentences. It also made me wonder whether a project debrief on Prosperity would be useful or of interest to the office

Here is what I have so far... not sure if helpful or if you want me to do more:

- Unusual milestone on Prosperity last week – a third (one year) extension to the EAC, enabled by a regulation under the 2018 Act.
- The joint request by the proponent, Taseko, and Tsilhqot'in Nation came in just before Christmas and was to give these long-standing opponents on Prosperity time to participate in a facilitate dialogue, acknowledging Tsilhqot'in opposition to the project and Taseko's commercial interests.
- There wasn't much time to address the request: if there was to be an extension, it would be needed before the Certificate deadline of January 14, 2020.
- Fern and Jess did an amazing job of pulling this together so quickly and creating a top quality report for Kevin's consideration. It also led to the creation of the first two orders under the 2018 Act – an Extension Order and a Fee Order
- The request from Taseko and Tsilhqot'in also asked that the work on the amendment be paused for at least a year...after many years of work and being quite close to completing the amendment review
- It is unclear what the outcome of all of this will be at the end of the year,
- But want to acknowledge the excellent work of Fern and Jess as they navigated though a complicated amendment. The amendment required considerable time, creativity and analytical rigor to figure out how to draw important information from the federal panel process from years earlier with limited technical support, and how to assess whether the changes proposed in the project made the effects better or worse compared to the 2009 assessment. In amongst this work was a process to formally consider whether or not it was feasible that the project could not be substantially started by January 2020, as, if not, the review of the amendment was futile. And during this, in the background, was the context of the federal government having not approved the project, court challenges and appeals on several regulatory decisions (federal panel report, federal decision, EMPR issuance of Notice of Work, EAO Associate DM interpretation of extension provisions in the 2002 Act), and FOI requests and a reconsideration of redacted records processes on the project.

**SHELLEY MURPHY**

Executive Project Director

Environmental Assessment Office

Government of British Columbia

OFFICE: 778-698-9311

MOBILE: 250-360-7802

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Assessment Office

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## Prosperity: Thank-you!

---

From: Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>  
To: EAO Staff - All <EAOSTaff@Victoria1.gov.bc.ca>  
Sent: January 23, 2020 6:13:18 PM PST

All, last week EAO came to a bit of an unusual milestone - we authorized a third (one year) extension to the EAC for Prosperity, enabled by a regulation under the 2018 Act. Keep reading if your are intrigued, but first....

I want to express my deep appreciation for the excellent work of Fern and Jessica as they consistently applied great creativity, excellent judgement and thorough analysis to navigate though a really complicated and long-running amendment process that included such unique features as:

- multiple court cases as a backdrop
- a years old federal panel process that resulted in a 'no'
- the intrusion of a simultaneous substantially start decision
- unrelenting time lines
- multiple challenges to the regulatory process and FOI requests, and
- a myriad of inter-related complexities that cut across all of these pieces

I also want to thank Shelley for her continued steady hand, and her thoughtful advice and guidance to the team and to Executive.

If you are still reading, it is because you want to know more about what makes this so unique:

- A joint request by the Certificate Holder (Taseko), and Tsilhqot'in Nation came in just before Christmas and was to give these long-standing opponents on Prosperity time to participate in a facilitate dialogue, acknowledging Tsilhqot'in opposition to the project and Taseko's commercial interests.
- There wasn't much time to address the request: if there was to be an extension, it would be needed before the Certificate deadline of January 14, 2020.
- Fern and Jess did an amazing job of pulling this together so quickly and creating a top quality report for Kevin's consideration. It also led to the creation of the first two orders under the 2018 Act – an Extension Order and a Fee Order
- The request from Taseko and Tsilhqot'in also asked that the work on the amendment be paused for at least a year...after many years of work and being quite close to completing the amendment review, so the amendment is not done yet, but by virtue of the extension, we may see it arise again in the future
- Although it is unclear what the outcome of all of this will be at the end of the year, I know it is unlikely we will see one quite like this any time soon.

If you still have questions, the team is looking to do an all staff debrief - likely some time in February or possibly March - come to hear more intrigue!

Many thanks!

Scott

## RE: For review: Estimates notes part one

---

From: Bailey, Scott EAO:EX  
s.15

To: Fenton, Chrystal EAO:EX <Chrystal.Fenton@gov.bc.ca>

Cc: Robinson, Tiffany EAO:EX s.15  
s.15, Gibson, Heidi EAO:EX s.15  
s.15

s.15 Heidi EAO>, Achampong, Bernard EAO:EX  
<Bernard.Achampong@gov.bc.ca>, Sterloff, Trish EAO:EX  
s.15

s.15, Braun, Nathan EAO:EX  
s.15

Sent: February 3, 2020 4:30:00 PM PST

Attachments: image001.png

All

I took a run at the notes in the top section referred to as 'Ready'. Mostly ready, with a few requests. The overview  
s.13

Please have back to me by Wed mid-day.  
Thanks!

---

**From:** Fenton, Chrystal EAO:EX <Chrystal.Fenton@gov.bc.ca>  
**Sent:** February 3, 2020 1:15 PM  
**To:** Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>  
**Cc:** Robinson, Tiffany EAO:EX <Tiffany.Robinson@gov.bc.ca>  
**Subject:** For review: Estimates notes part one

Hi Scott,

Most of the estimates notes are ready for your review now, there is more time held on Wednesday for the others. I have left track changes on where they have been used in the Issues notes (these are the fall house binder notes that have been updated).

Question: Would you like all of the Project Summary notes in your binder too – do you want to review them all ahead of time?

I:\EAO\EAO\_SHARED\Estimates\Estimates 2020

**Ready:**

1. Environmental Assessment Act 2002 Projects Overview (Sukunka, Wepac, RBT2)
2. Coastal Gaslink Compliance and Enforcement
3. EAO Compliance and Enforcement
4. EAO Litigation
5. EAO LNG Projects
6. Prosperity Gold & Copper Mine Project Amendment Request
7. Site C
8. Federal Impact Assessment and Cooperation Agreement
9. EA Project List January 2020 (for you and Kevin only)

**Ready for Wednesday:**

1. Budget notes from Jennifer (for you and Kevin only)
2. Environmental Assessment Act 2018 Implementation (including Capacity Funding Info, and UNDRIP implementation info)
3. New note: Environmental Assessment Act 2018 Projects Overview
4. Trans Mountain Expansion Project

5. New Act project Status table (for you and Kevin only)

Kevin has time booked on Friday afternoon to review all the notes. They are not due to ENV until February 18<sup>th</sup>, however Kevin is away most of next week so wanted to review early.

Thank you

**CHRYSTAL FENTON**

Manager, Environmental Assessment Operations

Environmental Assessment Office

Government of British Columbia

OFFICE: 778-974-2837

MOBILE: 250-889-0270



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## **FYI: KSM asking for second extension**

---

From: Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>  
To: Jardine, Kevin EAO:EX <Kevin.Jardine@gov.bc.ca>, Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>  
Cc: McLaughlin, Christine EAO:EX <Christine.McLaughlin@gov.bc.ca>, Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
Sent: March 30, 2020 12:46:06 PM PDT  
Attachments: image003.png

Hi there. Brent Murphy from KSM wrote to EMPR asking for a second extension to its EAC (a 5 year extension was granted last year). I haven't seen the letter yet, but it will be coming our way shortly as EMPR will direct KSM back to us. The letter notes the extension that was done for Prosperity.

S

**SHELLEY MURPHY**

Executive Project Director  
Environmental Assessment Office  
Government of British Columbia  
OFFICE: 778-698-9311  
MOBILE: 250-360-7802



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s.13 ; s.14 ; s.15 ; s.22

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Withheld pursuant to/removed as

s.13 ; s.14



Page 185 of 478

Withheld pursuant to/removed as

s.13 ; s.14 ; s.15

Page 186 of 478 to/à Page 187 of 478

Withheld pursuant to/removed as

s.13 ; s.14

## **RE: For review/input (today) - draft BN summarizing permit extensions**

---

From: Bailey, Scott EAO:EX  
s.15  
To: Black, Brenda EAO:EX <Brenda.Black@gov.bc.ca>, Avila, Amy EAO:EX  
<Amy.Avila@gov.bc.ca>, Rathbone, Mary EAO:EX  
<Mary.Rathbone@gov.bc.ca>  
Cc: Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Braun, Nathan  
EAO:EX <Nathan.Braun@gov.bc.ca>  
Sent: May 8, 2020 10:02:24 AM PDT  
Attachments: BN on Permit Extensions EAO comments SB.docx

Thanks again, all.

IF the attached works, I am happy to forward it on. Per my earlier note, I am also happy to discuss at P3 pursuing KSM.

Thanks

Scott

---

**From:** Rathbone, Mary EAO:EX <Mary.Rathbone@gov.bc.ca>

**Sent:** May 8, 2020 8:56 AM

**To:** Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>; Black, Brenda EAO:EX <Brenda.Black@gov.bc.ca>; Avila, Amy EAO:EX <Amy.Avila@gov.bc.ca>

**Cc:** Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>

**Subject:** RE: For review/input (today) - draft BN summarizing permit extensions

I have made some suggested edits for clarity, attached. Mary

---

**From:** Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>

**Sent:** May 8, 2020 8:50 AM

**To:** Black, Brenda EAO:EX <Brenda.Black@gov.bc.ca>; Avila, Amy EAO:EX <Amy.Avila@gov.bc.ca>; Rathbone, Mary EAO:EX <Mary.Rathbone@gov.bc.ca>

**Cc:** Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>

**Subject:** RE: For review/input (today) - draft BN summarizing permit extensions

Thanks, all. I'd like to make some minor adjustments. Will not be able to until closer to noon. I appreciate the great work on this.

Scott

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: "Black, Brenda EAO:EX" <Brenda.Black@gov.bc.ca>

Date: 2020-05-08 8:33 a.m. (GMT-08:00)

To: "Avila, Amy EAO:EX" <Amy.Avila@gov.bc.ca>, "Rathbone, Mary EAO:EX" <Mary.Rathbone@gov.bc.ca>, "Bailey, Scott EAO:EX" <Scott.Bailey@gov.bc.ca>

Cc: "Murphy, Shelley EAO:EX" <Shelley.Murphy@gov.bc.ca>, "Braun, Nathan EAO:EX" <Nathan.Braun@gov.bc.ca>

Subject: RE: For review/input (today) - draft BN summarizing permit extensions

One small TC and edit, otherwise looks good to me.

BB

---

**From:** Avila, Amy EAO:EX <Amy.Avila@gov.bc.ca>

**Sent:** May 7, 2020 5:09 PM

**To:** Rathbone, Mary EAO:EX <Mary.Rathbone@gov.bc.ca>; Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>

**Cc:** Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>;

Black, Brenda EAO:EX <Brenda.Black@gov.bc.ca>

**Subject:** RE: For review/input (today) - draft BN summarizing permit extensions

Hi Folks

s.13; s.14

Pls let me know if you have any comments and then we'll send over to EMPR in the am.

Thanks Mary and Brenda for your work on this.

Cheers

Amy Avila

---

**From:** Rathbone, Mary EAO:EX <[Mary.Rathbone@gov.bc.ca](mailto:Mary.Rathbone@gov.bc.ca)>

**Sent:** May 7, 2020 10:04 AM

**To:** Avila, Amy EAO:EX <[Amy.Avila@gov.bc.ca](mailto:Amy.Avila@gov.bc.ca)>; Bailey, Scott EAO:EX <[Scott.Bailey@gov.bc.ca](mailto:Scott.Bailey@gov.bc.ca)>

**Cc:** Murphy, Shelley EAO:EX <[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)>; Braun, Nathan EAO:EX <[Nathan.Braun@gov.bc.ca](mailto:Nathan.Braun@gov.bc.ca)>

**Subject:** FW: For review/input (today) - draft BN summarizing permit extensions

Hi All,

Attached is an updated draft BN from EMPR. Tania would like our feedback by the end of today.

I have provided some initial feedback (in track changes) to the bullets discussing possible extensions to EA certificates (page 3 of note).

Please provide any input you have by end of day, and I forward on to EMPR.

Thanks,

Mary

---

**From:** Demchuk, Tania EMPR:EX <[Tania.Demchuk@gov.bc.ca](mailto:Tania.Demchuk@gov.bc.ca)>

**Sent:** May 7, 2020 8:46 AM

**To:** Cox, Brad EMPR:EX <[Brad.Cox@gov.bc.ca](mailto:Brad.Cox@gov.bc.ca)>; Gibbs, Claire EMPR:EX <[Claire.Gibbs@gov.bc.ca](mailto:Claire.Gibbs@gov.bc.ca)>; Cullen, Heather J

EMPR:EX <[Heather.Cullen@gov.bc.ca](mailto:Heather.Cullen@gov.bc.ca)>; Weber, Marian ENV:EX <[Marian.Weber@gov.bc.ca](mailto:Marian.Weber@gov.bc.ca)>; Lohbrunner,

Gwendolyn ENV:EX <[Gwendolyn.Lohbrunner@gov.bc.ca](mailto:Gwendolyn.Lohbrunner@gov.bc.ca)>; Ruscheinski, Bonnie FLNR:EX

<[Bonnie.Ruscheinski@gov.bc.ca](mailto:Bonnie.Ruscheinski@gov.bc.ca)>; Schafthuizen, Jim FLNR:EX <[Jim.Schafthuizen@gov.bc.ca](mailto:Jim.Schafthuizen@gov.bc.ca)>; Rathbone, Mary

EAO:EX <[Mary.Rathbone@gov.bc.ca](mailto:Mary.Rathbone@gov.bc.ca)>; Perrins, Greg EMPR:EX <[Greg.Perrins@gov.bc.ca](mailto:Greg.Perrins@gov.bc.ca)>

**Cc:** Schwabe, Michelle EMPR:EX <[Michelle.Schwabe@gov.bc.ca](mailto:Michelle.Schwabe@gov.bc.ca)>; Warnock, George EMPR:EX

<[George.Warnock@gov.bc.ca](mailto:George.Warnock@gov.bc.ca)>

**Subject:** For review/input (today) - draft BN summarizing permit extensions

Hi All,

I've been in touch with most of you this week regarding how requests for permit/tenure extensions are being managed in response to COVID-19. <sup>s.13</sup>

s.13

s.13

Please provide your input today (or let me know if this is not possible).

- Comments throughout indicate where I am seeking specific input.
- Please use track changes to add or change text as appropriate.
- All edits and suggestions are welcome!

Let me know if you'd like to connect by phone. Thank-you for your ongoing help with this (ever-evolving!) note.

Cheers,

Tania

**Tania Demchuk MSc, PGeo**

Executive Director, Compliance Audits and Enforcement Branch

Mines Health, Safety and Enforcement Division

Ministry of Energy, Mines and Petroleum Resources

778.698.7222

Date:  
CLIFF:

## MINISTRY OF ENERGY, MINES AND PETROLEUM RESOURCES

### BRIEFING NOTE FOR INFORMATION

**PREPARED FOR:** Dave Nikolejsin, Ministry of Energy, Mines and Petroleum Resources

**ISSUE:** Extending Natural Resource authorizations and tenures in response to COVID-19

#### BACKGROUND:

The COVID-19 pandemic has caused economic disruption that is impacting British Columbia's natural resource industries in several ways. Although many natural resource industries are deemed an essential service, companies report slowing or delaying planned activities and have expressed challenges to maintaining the liquidity required for ongoing operation and investment. Natural resource industries are looking to the provincial government to provide short- and medium-term relief, in addition to longer-term economic stimulus.

The oil and gas and mineral exploration sectors have specifically requested a blanket extension of authorizations that may expire before companies are able to conduct their authorized work.

The *Oil and Gas Activities Act* (OGAA) specifies that permits expire two years after issuance if work has not commenced. There is currently no mechanism in OGAA to extend the expiration date without an application from the company. The *Mines Act* permits for exploration activities have end dates defined in the permit. The *Mines Act* provides for the Chief Inspector of Mines (or delegate) to amend individual permits as required, including to change permit end dates.

Other industries regulated across the natural resource ministries have not specifically requested authorization extensions, but the ministries have reviewed the potential for extension requests and options for considering extensions with a view to consistency and coordination. Tenure extensions have been similarly considered.

#### DISCUSSION:

Ideally companies would carry out their authorized work as planned and in accordance with their permit timelines, however extending the expiry date of existing authorizations would acknowledge the current pressures associated with COVID-19 by providing increased certainty and flexibility to operators to complete their work. It is desirable to do this in a timely manner that limits additional regulatory process and increases certainty for companies with existing authorizations that their work can proceed at a future date.

s.13; s.14

Page 191 of 478 to/à Page 192 of 478

Withheld pursuant to/removed as

s.13 ; s.14 ; s.16

Page 193 of 478

Withheld pursuant to/removed as

s.13 ; s.14

## **RE: For review/input (today) - draft BN summarizing permit extensions**

---

From : Bailey, Scott EAO:EX <sup>s.15</sup>  
To: Rathbone, Mary EAO:EX <Mary.Rathbone@gov.bc.ca>, Avila, Amy EAO:EX <Amy.Avila@gov.bc.ca>, Black, Brenda EAO:EX <Brenda.Black@gov.bc.ca>  
Cc: Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>  
Sent: May 8, 2020 10:12:20 AM PDT

Sorry, to be clear, I will await any further comments and ask that it be sent back to EMPR per normal channels – as in, I will not send it, but whomever is our contact should.

Thanks!  
Scott

---

**From:** Rathbone, Mary EAO:EX <Mary.Rathbone@gov.bc.ca>  
**Sent:** May 8, 2020 10:10 AM  
**To:** Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>; Black, Brenda EAO:EX <Brenda.Black@gov.bc.ca>; Avila, Amy EAO:EX <Amy.Avila@gov.bc.ca>  
**Cc:** Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>  
**Subject:** RE: For review/input (today) - draft BN summarizing permit extensions  
I have no further input. Thank you Scott, for sending our feedback on to EMPR. Mary

---

**From:** Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>  
**Sent:** May 8, 2020 10:02 AM  
**To:** Rathbone, Mary EAO:EX <Mary.Rathbone@gov.bc.ca>; Black, Brenda EAO:EX <Brenda.Black@gov.bc.ca>; Avila, Amy EAO:EX <Amy.Avila@gov.bc.ca>  
**Cc:** Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>  
**Subject:** RE: For review/input (today) - draft BN summarizing permit extensions  
Thanks again, all.  
IF the attached works, I am happy to forward it on. Per my earlier note, I am also happy to discuss at P3 pursuing KSM.  
Thanks  
Scott

---

**From:** Rathbone, Mary EAO:EX <Mary.Rathbone@gov.bc.ca>  
**Sent:** May 8, 2020 8:56 AM  
**To:** Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>; Black, Brenda EAO:EX <Brenda.Black@gov.bc.ca>; Avila, Amy EAO:EX <Amy.Avila@gov.bc.ca>  
**Cc:** Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>  
**Subject:** RE: For review/input (today) - draft BN summarizing permit extensions  
I have made some suggested edits for clarity, attached. Mary

---

**From:** Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>  
**Sent:** May 8, 2020 8:50 AM  
**To:** Black, Brenda EAO:EX <Brenda.Black@gov.bc.ca>; Avila, Amy EAO:EX <Amy.Avila@gov.bc.ca>; Rathbone, Mary EAO:EX <Mary.Rathbone@gov.bc.ca>  
**Cc:** Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>  
**Subject:** RE: For review/input (today) - draft BN summarizing permit extensions  
Thanks, all. I'd like to make some minor adjustments. Will not be able to until closer to noon. I appreciate the great work on this.  
Scott

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: "Black, Brenda EAO:EX" <Brenda.Black@gov.bc.ca>  
Date: 2020-05-08 8:33 a.m. (GMT-08:00)  
To: "Avila, Amy EAO:EX" <Amy.Avila@gov.bc.ca>, "Rathbone, Mary EAO:EX" <Mary.Rathbone@gov.bc.ca>, "Bailey, Scott EAO:EX" <Scott.Bailey@gov.bc.ca>  
Cc: "Murphy, Shelley EAO:EX" <Shelley.Murphy@gov.bc.ca>, "Braun, Nathan EAO:EX" <Nathan.Braun@gov.bc.ca>  
Subject: RE: For review/input (today) - draft BN summarizing permit extensions



One small TC and edit, otherwise looks good to me.  
BB

---

**From:** Avila, Amy EAO:EX <Amy.Avila@gov.bc.ca>

**Sent:** May 7, 2020 5:09 PM

**To:** Rathbone, Mary EAO:EX <Mary.Rathbone@gov.bc.ca>; Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>

**Cc:** Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>; Black, Brenda EAO:EX <Brenda.Black@gov.bc.ca>

**Subject:** RE: For review/input (today) - draft BN summarizing permit extensions

Hi Folks

s.13; s.14

Thanks Mary and Brenda for your work on this.

Cheers

Amy Avila

---

**From:** Rathbone, Mary EAO:EX <Mary.Rathbone@gov.bc.ca>

**Sent:** May 7, 2020 10:04 AM

**To:** Avila, Amy EAO:EX <Amy.Avila@gov.bc.ca>; Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>

**Cc:** Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>

**Subject:** FW: For review/input (today) - draft BN summarizing permit extensions

Hi All,

Attached is an updated draft BN from EMPR. Tania would like our feedback by the end of today.

I have provided some initial feedback (in track changes) to the bullets discussing possible extensions to EA certificates (page 3 of note).

Please provide any input you have by end of day, and I forward on to EMPR.

Thanks,

Mary

---

**From:** Demchuk, Tania EMPR:EX <Tania.Demchuk@gov.bc.ca>

**Sent:** May 7, 2020 8:46 AM

**To:** Cox, Brad EMPR:EX <Brad.Cox@gov.bc.ca>; Gibbs, Claire EMPR:EX <Claire.Gibbs@gov.bc.ca>; Cullen, Heather J EMPR:EX <Heather.Cullen@gov.bc.ca>; Weber, Marian ENV:EX <Marian.Weber@gov.bc.ca>; Lohbrunner,

Gwendolyn ENV:EX <Gwendolyn.Lohbrunner@gov.bc.ca>; Ruscheinski, Bonnie FLNR:EX

<Bonnie.Ruscheinski@gov.bc.ca>; Schafthuizen, Jim FLNR:EX <Jim.Schafthuizen@gov.bc.ca>; Rathbone, Mary

EAO:EX <Mary.Rathbone@gov.bc.ca>; Perrins, Greg EMPR:EX <Greg.Perrins@gov.bc.ca>

**Cc:** Schwabe, Michelle EMPR:EX <Michelle.Schwabe@gov.bc.ca>; Warnock, George EMPR:EX

<George.Warnock@gov.bc.ca>

**Subject:** For review/input (today) - draft BN summarizing permit extensions

Hi All,

I've been in touch with most of you this week regarding how requests for permit/tenure extensions are being managed in response to COVID-19.<sup>s.13</sup>

s.13

s.13

Please provide your input today (or let me know if this is not possible).

- Comments throughout indicate where I am seeking specific input.
- Please use track changes to add or change text as appropriate.
- All edits and suggestions are welcome!

Let me know if you'd like to connect by phone. Thank-you for your ongoing help with this (ever-evolving!) note.

Cheers,

Tania

**Tania Demchuk MSc, PGeo**

Executive Director, Compliance Audits and Enforcement Branch

Mines Health, Safety and Enforcement Division

Ministry of Energy, Mines and Petroleum Resources

778.698.7222

## **DRAFT BN\_Information\_permit extensions COVID 11May2020v2.1**

---

From: Bailey, Scott EAO:EX  
s.15

To: Amann-Blake, Nathaniel EMPR:EX<sup>s.15</sup>  
s.15  
Avila, Amy EAO:EX <Amy.Avila@gov.bc.ca>

Sent: May 11, 2020 5:50:26 PM PDT

Attachments: DRAFT BN\_Information\_permit extensions COVID 11May2020v2.1.docx

Hi Nate, thanks for the call just now. I made some suggested changes. I'd welcome any comments from Amy or you on whether this seems to capture the story completely enough.

Thanks  
Scott

## MINISTRY OF ENERGY, MINES AND PETROLEUM RESOURCES

### BRIEFING NOTE FOR INFORMATION

**PREPARED FOR:** Dave Nikolejsin, Deputy Minister, Ministry of Energy, Mines and Petroleum Resources and John Allan, Deputy Minister, Ministry of Forests, Lands, Natural Resource Operations and Rural Development

**ISSUE:** Extending Natural Resource authorizations and tenures in response to COVID-19

#### BACKGROUND:

The COVID-19 pandemic has caused economic disruption that is impacting British Columbia's natural resource industries in several ways. Although many natural resource industries are deemed an essential service, companies report slowing or delaying planned activities and have expressed challenges to maintaining the liquidity required for ongoing operation and investment as well as cost increases. Natural resource industries are looking to the provincial government to provide short- and medium-term relief, in addition to longer-term economic stimulus.

The oil and gas and mineral exploration sectors have requested a blanket extension of authorizations that may expire before companies are able to conduct their authorized work.

The *Oil and Gas Activities Act* (OGAA) General Regulation specifies that permits expire two years after issuance if work has not commenced (except for permits associated with an environmental assessment (EA) certificate, which expire when the EA certificate expires). There is currently no mechanism in OGAA to extend the expiration date without an application from the company. The *Mines Act* permits for exploration activities have end dates for authorized activities defined in the permit. The *Mines Act* provides for the Chief Inspector of Mines (or delegate) to amend permits as required, including to change end dates of authorized activities.

Other industries regulated across the natural resource ministries have also made requests for authorization or tenure extensions and ministries have reviewed options for considering extensions with a view to consistency and coordination.

#### DISCUSSION:

Ideally companies would carry out their authorized work as planned and in accordance with their permit timelines; however, extending the expiry date of existing authorizations would acknowledge the current pressures associated with COVID-19 by providing increased certainty and flexibility to operators to complete their work. It is desirable to do this in a timely manner that limits additional regulatory process and increases certainty for companies with existing authorizations that their work can proceed at a future date.

s.13; s.14

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Withheld pursuant to/removed as

s.13 ; s.14 ; s.16

Page 199 of 478

Withheld pursuant to/removed as

s.13 ; s.14

Page 200 of 478 to/à Page 201 of 478

Withheld pursuant to/removed as

s.13 ; s.14 ; s.16

Page 202 of 478 to/à Page 211 of 478

Withheld pursuant to/removed as

s.13 ; s.14

## FW: Taseko Leave to Appeal denied by SCC - 2020-05-14

---

From: Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>  
To: Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>, Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>  
Sent: May 14, 2020 10:26:49 AM PDT

You may have already heard, but just in case.

<https://biv.com/article/2020/05/new-prosperity-mine-dead-tsilhqotin>

### **NATHAN BRAUN**

OFFICE: 778-698-9280 | MOBILE: 250-882-2050

---

**From:** McPhail, Norman PSSG:EX <Norman.McPhail@gov.bc.ca>

**Sent:** May 14, 2020 10:23 AM

**To:** Standen, Jim ENV:EX <Jim.Standen@gov.bc.ca>; Turner, Tim FLNR:EX <Tim.Turner@gov.bc.ca>; Faucett, D. Brad FLNR:EX <D.Brad.Faucett@gov.bc.ca>; Ranson, David ENV:EX <David.Ranson@gov.bc.ca>; Thoroughgood, Garth <Garth.Thoroughgood@BCOGC.ca>; Paulson, Ken OGC:IN <Ken.Paulson@bcogc.ca>; Pilkington, Ian TRAN:EX <Ian.Pilkington@gov.bc.ca>; Miska, Ed TRAN:EX <Ed.Miska@gov.bc.ca>; Forsdick, Doug O ENV:EX <Doug.Forsdick@gov.bc.ca>; Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>

**Cc:** Steenvoorden, Tom PSSG:EX <Tom.Steenvoorden@gov.bc.ca>; Van Swieten, Catherine PSSG:EX <Catherine.VanSwieten@gov.bc.ca>

**Subject:** Taseko Leave to Appeal denied by SCC - 2020-05-14

RCMP update - Further to our prior tracking of the Taseko Mines Project proposal and the Tsilhqot'in First Nation opposition to a gold and copper mine. Please be advised that the Supreme Court of Canada refused Taseko's application for leave to appeal the Government of Canada's denial of an environmental approval certificate. This means that the current set of court actions in relation to the New Prosperity mine have concluded.

Regards

Norm McPhail

Public Safety Initiatives | Policing and Security Branch  
Ministry of Public Safety and Solicitor General



Page 213 of 478

Withheld pursuant to/removed as

s.13 ; s.14

## **Taseko Leave to Appeal denied by SCC - 2020-05-14**

---

From: Bailey, Scott EAO:EX<sup>s.15</sup>  
To: Sather, Kelly ENV:EX <Kelly.Sather@gov.bc.ca>  
Sent: May 14, 2020 10:39:05 AM PDT

Hi Kelly, in case you have not seen this.

<https://biv.com/article/2020/05/new-prosperity-mine-dead-tsilhqotin>

Regards,  
Scott

## **RE: For Approval: Taseko/Prosperity issues note**

---

From: Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>  
To: Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>, Goldade, Shannon EAO:EX <Shannon.Goldade@gov.bc.ca>  
Cc: Johnson, Nicholas EAO:EX <Nicholas.Johnson@gov.bc.ca>, Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>, Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>  
Sent: May 15, 2020 8:05:42 AM PDT  
Attachments: image001.png

Yes, that looks good.  
Thanks Scott

---

**From:** Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>  
**Sent:** May 15, 2020 7:47 AM  
**To:** Goldade, Shannon EAO:EX <Shannon.Goldade@gov.bc.ca>; Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>  
**Cc:** Johnson, Nicholas EAO:EX <Nicholas.Johnson@gov.bc.ca>; Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
**Subject:** Re: For Approval: Taseko/Prosperity issues note

Shannon, welcome back!

If Shelley confirms...

I propose this:

The company unsuccessfully challenged the federal government's 2014 decision through the courts, ending with the Supreme Court of Canada decision on May 14, 2020 to decline to hear Taseko's appeal. As is usual, no reasons were given for the dismissal.

Be changed to this:

The company unsuccessfully challenged the federal government's 2014 decision through the courts, ending with the Supreme Court of Canada decision on May 14, 2020 to decline to hear Taseko's appeal. Therefore, the project is without a federal EA approval. As is usual, no reasons were given for the dismissal.

---

**From:** Goldade, Shannon EAO:EX  
**Sent:** Friday, May 15, 2020 7:12 AM  
**To:** Bailey, Scott EAO:EX  
**Cc:** Johnson, Nicholas EAO:EX; Warner, Jessica EAO:EX  
**Subject:** For Approval: Taseko/Prosperity issues note

Hi Scott

Attached is the final version of the Prosperity IN because of the recent federal ruling. Nathan and Amy have reviewed; Shelley and team developed the updates to the copy. Can you let me know if you have any concerns?

Thank you

**SHANNON GOLDADE**

Business Services Coordinator  
Environmental Assessment Office  
Government of British Columbia  
OFFICE: 778-698-9318

***The EAO respectfully acknowledges that it carries out its work on the traditional territories of Indigenous nations throughout British Columbia.***

*This e-mail is confidential and is intended only for the person(s) to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you received this e-mail in error, please destroy this e-mail and contact me directly.*

Environmental Assessment Office, May 15, 2020

## **PROSPERITY GOLD-COPPER PROJECT**

### **AMENDMENT REQUEST**

- The Prosperity Gold-Copper Project received a provincial Environmental Assessment Certificate in January 2010; however, the federal government rejected the project in November 2010 and again rejected the redesigned New Prosperity Project in 2014.
- The T̓silhqot'in Nation strongly opposed both proposals.
- The company unsuccessfully challenged the federal government's 2014 decision through the courts, ending with the Supreme Court of Canada decision on May 14, 2020 to decline to hear Taseko's appeal. Therefore, the project is without a federal EA approval. As is usual, no reasons were given for the dismissal.
- New Prosperity cannot proceed without federal approval.
- The company applied to the Environmental Assessment Office (EAO) for an amendment to its Environmental Assessment Certificate (EAC) to allow for the changes contemplated by the New Prosperity design.
- In January 2020, at the request of the company and T̓silhqot'in Nation, the EAO extended the term of the Prosperity EAC for 12 months until January 14, 2021.
- The amendment is on hold until December 2020 at the earliest, at the request of Taseko and T̓silhqot'in Nation.
- The EAO will have a better understanding of any implications for the amendment through dialogue with Taseko prior to December 2020.

## **Background:**

- Taseko Mines Ltd. (Taseko) proposes to develop the Prosperity Gold-Copper Project (Project), an open-pit mine with a 20-year operating life and a production capacity of 70,000 tonnes of mineral ore per day, 125 kilometres southwest of Williams Lake.
- The Project received a provincial Environmental Assessment Certificate (EAC) on January 14, 2010. As a result of a five-year extension granted in 2015, Taseko had until January 14, 2020 to substantially start the Project.
- The federal government rejected the Project in November 2010 and subsequently rejected a revised proposal, the New Prosperity Project, in February 2014, following review by a federal panel.
- Taseko commenced judicial reviews of the federal panel report and process and the federal rejection of the New Prosperity Project. On December 5, 2017, the federal court dismissed the judicial reviews. Taseko filed notice of appeal on both matters on January 3, 2018, which were dismissed on December 18, 2019. Taseko filed leave for appeal to the Supreme Court of Canada in January 2020 which was subsequently dismissed on May 14, 2020.
- The Project as proposed cannot proceed without federal approval.

## **Amendment Review**

- Taseko is seeking to amend its provincial EAC to allow for the changes included in the New Prosperity Project design.
- The assessment of the proposed amendment was put in temporary suspension in December 2019, when the EAO received Taseko's and Tsilhqot'in Nation's (TN) request.
- Even though the federal government has rejected the New Prosperity Project, the EAO was legally obligated to review the amendment request. This is because the provincial and federal governments have separate and independent statutory processes for Environmental Assessment due to their separate constitutional authority and jurisdiction.

## **TNG and Taseko Request**

- On December 12, 2019, the EAO received a joint letter from Taseko and the TN (the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of issues between the Parties relating to Prosperity.
- In the joint letter, the Parties requested that the EAO extend the term of the EAC for 12 months from its expiry date and hold the amendment application in abeyance until at least December 2020.
- The EAO confirmed that the amendment review was suspended on December 17, 2019 and on January 13, 2020, the Chief Executive Assessment Officer of the EAO extended the EAC for 12 months. With the extension, the EAC expiry date is January 14, 2021.
- The extension was enabled by a regulation under the Act, deposited on December 19, 2019, which disapplied the section of the 2018 *Environmental Assessment Act* that limits an EAC to only one extension.
- The extension will provide the opportunity for the Parties to explore a long-term resolution of the issues relating to Prosperity and supports the government's direction to advance reconciliation with Indigenous nations through relationship building.

- The EAO consulted the five Indigenous nations whose traditional territories overlapped project components on the amendment request. Two Indigenous nations indicated they would not object to the extension and three did not respond by the time of the decision. Following the decision, Stswecem’c Xgat’tem First Nation wrote to the EAO stating its lack of response did not indicate agreement with the extension, its longstanding concerns with Prosperity remain.

Communications Contacts:	Nicholas Johnson	250 208-9337
	Amy Avila (Back-up)	778 698-7296

Program Area Contacts:	Fern Stockman	778 698-9313
	Shelley Murphy (Back-up)	778-698-9311

## RE: Urgent: MEDIA: Taseko (The Narwhal)

---

From: Bailey, Scott EAO:EX  
s.15  
To: Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>, Goldade, Shannon EAO:EX <Shannon.Goldade@gov.bc.ca>  
Cc: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>, Johnson, Nicholas EAO:EX <Nicholas.Johnson@gov.bc.ca>, McLaughlin, Christine EAO:EX <Christine.McLaughlin@gov.bc.ca>  
Sent: May 15, 2020 2:07:40 PM PDT  
Attachments: image001.png  
approved

---

**From:** Goldade, Shannon EAO:EX <Shannon.Goldade@gov.bc.ca>

**Sent:** May 15, 2020 1:38 PM

**To:** Braun, Nathan EAO:EX <Nathan.Braun@gov.bc.ca>; Bailey, Scott EAO:EX <Scott.Bailey@gov.bc.ca>

**Cc:** McLaughlin, Christine EAO:EX <Christine.McLaughlin@gov.bc.ca>; Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>; Johnson, Nicholas EAO:EX <Nicholas.Johnson@gov.bc.ca>

**Subject:** Urgent: MEDIA: Taseko (The Narwhal)

**Importance:** High

Hello,

As per the question below, GCPE would like to use our bullets from this mornings approved IN, to provide EMPR with an answer to their media request.

Please let me know if you have any concerns.

**Reporter:** Judith Lavoie, The Narwhal

**Deadline:** ASAP

**Request:**

What will happen to the mineral leases and tenure held by Taseko?

Tsilhqot'in and Taseko agreed provincial environmental assessment certificate could be extended by a year - what happens to that?

- The company unsuccessfully challenged the federal government's 2014 decision through the courts, ending with the Supreme Court of Canada decision on May 14, 2020 to decline to hear Taseko's appeal.
- Therefore, the project is without a federal EA approval and cannot proceed.
- In January 2020, at the request of the company and Tsilhqot'in Nation, the EAO extended the term of the Prosperity EAC for 12 months until January 14, 2021.
- The amendment is on hold until December 2020 at the earliest, at the request of Taseko and Tsilhqot'in Nation.
- The EAO will have a better understanding of any implications for the amendment through dialogue with Taseko prior to December 2020.

Thank you

**SHANNON GOLDADE**

Business Services Coordinator  
Environmental Assessment Office  
Government of British Columbia  
OFFICE: 778-698-9318

**EAO** | Environmental  
Assessment Office

**The EAO respectfully acknowledges that it carries out its work on the traditional territories of Indigenous nations throughout British Columbia.**

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Page 221 of 478 to/à Page 223 of 478

Withheld pursuant to/removed as

s.12 ; s.13 ; s.14




MY ITEMS
MY ASSIGNEE'S ITEMS
WATCHED ITEMS
CREATE
SUPPORT
SETTINGS
SUPER USER

### ITEM HISTORY

Enter one of the Item Numbers for the history you want to view and then hit Enter on your keyboard.

ID Number

Cliff Number

Other Number

#### Selected Item

Date Completed	ID	Cliff Number	Other Number	Subject
12/21/2017	8559	313329		Prosperity Amendment EAO Response to TNG Dec 7 Letter

#### Approvals

Date Approved	User	Title
12/20/2017 9:22 AM	Jardine, Kevin EAO:EX	Item Approved.
12/19/2017 3:44 PM	Bailey, Scott EAO:EX	Item Approved.
12/18/2017 2:41 PM	Murphy, Shelley EAO:EX	Item Approved.

#### Comments

Comment Date	User	Title
12/20/2017 9:22 AM	Jardine, Kevin EAO:EX	Thanks, Sabrina. Ready for physical signature with the edits as indicated.
12/20/2017 9:10 AM	Loiacono, Sabrina EAO:EX	Kevin- here are the Prosperity Amendments docs.
12/20/2017 8:59 AM	Dakin, Ashley EAO:EX	For Kevin.
12/19/2017 1:30 PM	Dakin, Ashley EAO:EX	For your review and approval as A/Associate DM.
12/19/2017 12:40 PM	Conder, Geoffrey EAO:EX	Hello Ashley, Shelley approved the new wording Fern added, so now it is back to Scott.
12/19/2017 11:54 AM	Dakin, Ashley EAO:EX	As requested.
12/18/2017 4:13 PM	Dakin, Ashley EAO:EX	For review and approval at A/Associate DM. Thanks!
12/18/2017 3:08 PM	Conder, Geoffrey EAO:EX	Hello Ashley, Shelley has approved this, and now it is on to Scott for his review.
12/18/2017 2:41 PM	Murphy, Shelley EAO:EX	Hi Geoffrey - I changed it to be Prosperity Gold-Copper Project as that is the official project name on the EAC. When Scott is reviewing, would you mind double checking that there haven't been any changes to the TNG Chiefs?
12/18/2017 10:56 AM	Conder, Geoffrey EAO:EX	Hello Shelley, Fern advised me that after I format this it is good to go to Scott, but I wanted you to have a quick look before I send it on. I changed "Prosperity Mine" to "New Prosperity Mine Project" and added an email for Chief Victor Stump.

#### Path

Path Date	User	Title
12/21/2017 2:15 PM	Loiacono, Sabrina EAO:EX	Item completed with the reason Completed.
12/20/2017 9:22 AM	Jardine, Kevin EAO:EX	Item sent to Loiacono, Sabrina.
12/20/2017 9:10 AM	Loiacono, Sabrina EAO:EX	Item sent to Jardine, Kevin.
12/20/2017 8:59 AM	Dakin, Ashley EAO:EX	Item sent to Loiacono, Sabrina.
12/19/2017 3:44 PM	Bailey, Scott EAO:EX	Item sent to Dakin, Ashley.
12/19/2017 1:30 PM	Dakin, Ashley EAO:EX	Item sent to Bailey, Scott.
12/19/2017 12:40 PM	Conder, Geoffrey EAO:EX	Item sent to Dakin, Ashley.
12/19/2017 11:54 AM	Dakin, Ashley EAO:EX	Item sent to Conder, Geoffrey.
12/18/2017 4:13 PM	Dakin, Ashley EAO:EX	Item sent to Bailey, Scott.
12/18/2017 3:08 PM	Conder, Geoffrey EAO:EX	Item sent to Dakin, Ashley.
12/18/2017 2:41 PM	Murphy, Shelley EAO:EX	Item sent to Conder, Geoffrey.
12/18/2017 10:56 AM	Conder, Geoffrey EAO:EX	Item sent to Murphy, Shelley.
12/18/2017 10:51 AM	Conder, Geoffrey EAO:EX	Item Created.

#### DocumentPath

Upload Date	User	Title
12/18/2017 10:51 AM	Conder, Geoffrey EAO:EX	Document [313329-INCOMING-TNG re Approved Amendment Process-7Dec17] Uploaded.
12/18/2017 10:51 AM	Conder, Geoffrey EAO:EX	Document [313329-Prosperity EAO response to TNG draft-18Dec17] Uploaded.



For support, email [iCollaborate@gov.bc.ca](mailto:iCollaborate@gov.bc.ca).

## Correspondence from the Environmental Assessment Office

---

From: Loiacono, Sabrina EAO:EX <Sabrina.Loiacono@gov.bc.ca>  
To: jlaplante@tsilhqotin.ca  
Cc: ChiefJoe@tletingoxtin.ca, chief@esdilagh.ca, tooseyfrontdesk@hotmail.com, roger@xenigwetin.ca, manager@tsideldel.org, tng-director@tsilhqotin.ca, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Jardine, Kevin EAO:EX <Kevin.Jardine@gov.bc.ca>  
Sent: December 20, 2017 10:38:20 AM PST  
Attachments: image001.jpg, 13329-Prosperity EAO response to TNG Final 20Dec17.pdf

Good morning,

Please find attached a letter from Kevin Jardine, Associate Deputy Minister, Environmental Assessment Office.

Kind regards,

Sabrina

**Sabrina Loiacono**

*Manager- Executive Operations*

*Environmental Assessment Office*

*Ministry of Environment and Climate Change Strategy*

*Government of British Columbia*

*250-356-7475*



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File: 30200-25/PROSPERITY-19: 04-01

Reference: 313329

December 20, 2017

**SENT VIA EMAIL**

J.P. Laplante  
Mining, Oil and Gas Manager  
Tsilhqot'in National Government  
253 Fourth Avenue North  
Williams Lake, BC V2G 4T4  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Dear Mr. Laplante:

Thank you for your letter of December 7, 2017, regarding the assessment of Taseko Mines Ltd.'s (Taseko) application to amend its Environmental Assessment Certificate for the Prosperity Gold-Copper Project (proposed amendment).

I appreciate the extensive participation of Tsilhqot'in members during the Federal Panel Process. I am currently considering the concerns and perspectives raised in your letter and will provide you with a detailed response in the near future.

As requested, we will remove reference to Tsilhqot'in National Government as a member/ participant in the Environmental Assessment Office's (EAO) working group for the proposed amendment in our documentation going forward. We will revise the procedures and workplan accordingly after consideration of the concerns raised in your letter.

There are some aspects of your characterization of the EAO's process for the proposed amendment with which we disagree. However, given the concerns raised in your letter - and recognizing the related expenditures of time and resources the Tsilhqot'in have made over the past several years - I will address those once I have had the opportunity to fully consider your letter.

...2

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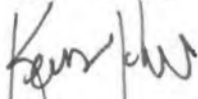
Environmental  
Assessment  
Office

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> Fl-836 Yates Street  
Victoria BC V8W 1L8

Please let me know if you would like to meet to discuss any of the above points. You can also contact Shelley Murphy at 778 698-9311 (note that this is a new phone number) or by email at [Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca).

With best regards,



Kevin Jardine  
Associate Deputy Minister

cc: Chief Joe Alphonse, Tribal Chairman, Tsilhqot'in National Government  
[ChiefJoe@tletingoxtin.ca](mailto:ChiefJoe@tletingoxtin.ca)

Chief Victor Stump, ?Esdilagh First Nation  
[chief@esdilagh.ca](mailto:chief@esdilagh.ca)

Chief Francis Laceese, Tl'esqox First Nation  
[tooseyfrontdesk@hotmail.com](mailto:tooseyfrontdesk@hotmail.com)

Chief Russell Myers Ross, Yunetsit'in Government  
[rmross@yunesitin.ca](mailto:rmross@yunesitin.ca)

Chief Roger William, Xeni Gwet'in First Nation  
[roger@xenigwetin.ca](mailto:roger@xenigwetin.ca)

Chief Percy Guichon, Tsi Deldel First Nation  
[manager@tsideldel.org](mailto:manager@tsideldel.org)

Crystal Verhaeghe, Executive Director, Tsilhqot'in National Government  
[tng-director@tsilhqotin.ca](mailto:tng-director@tsilhqotin.ca)

Shelley Murphy, Executive Project Director, Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)



## T̑SILHQOT'IN NATIONAL GOVERNMENT

253 – 4<sup>th</sup> Avenue North • Williams Lake, BC V2G 4T4 • Phone (250) 392-3918 • Fax (250) 398-5798

December 7, 2017

Environmental Assessment Office  
PO BOX 9426 STN PROV GOVT  
VICTORIA BC  
V8W9V1  
CANADA

**Attn: Kevin Jardine**  
Associate Deputy Minister

**Shelley Murphy**  
Executive Project Director

via email: [Kevin.Jardine@gov.bc.ca](mailto:Kevin.Jardine@gov.bc.ca) and [shelley.murphy@gov.bc.ca](mailto:shelley.murphy@gov.bc.ca)

Dear Mr. Jardine and Ms. Murphy:

I write in response to Ms. Murphy's letter of June 30, 2017 to myself, enclosing the Environmental Assessment Office's ("**EAO**") approved (revised) procedures ("**Revised Procedures**") and work plan ("**June 2017 Work Plan**") for reviewing Taseko Mines Limited's ("**TML**") application to amend its Environmental Assessment Certificate for the rejected Prosperity Mine.

I also write in response to Mr. Jardine's letter to Chief Joe Alphonse dated June 21, 2017, and a previous letter to myself dated June 12, 2017, outlining factors to be considered ("**Factors to Consider**") by the EAO Executive Director or Minister about whether or not to grant the amendment.

As you are likely aware, shortly after the EAO's decision to approve the Revised Procedures and the June 2017 Work Plan, the Tsilhqot'in Nation was literally engulfed in unprecedented wildfires, now the largest in British Columbia's ("**B.C.**") history. This has affected our ability to respond to the EAO in a timely manner. We appreciate your understanding with respect to the delay in our response.

We are profoundly disappointed that the EAO has decided to proceed on its course of radically altering the procedures for the amendment review. As canvassed in our correspondence to the EAO going back to 2016, the decision to jettison the New Prosperity

Panel Report ("**Panel Report**") as the *main* source for information and findings<sup>1</sup> and as the "main assessment document in the referral package to decision makers"<sup>2</sup> undercuts the basic integrity of the process and the legitimate expectations on the part of the Tsilhqot'in Nation.

British Columbia has reneged on its government-to-government commitment to have some independence of process for the amendment review. This was explicitly achieved through the reliance on the Federal Panel Report as the main assessment document, which flowed from a process in which the Tsilhqot'in Nation participated fully.

That process was laborious, expensive, and had participation from Tsilhqot'in members, leaders, Elders, youth, technical experts and key provincial ministries. Multiple reviewers raised serious technical concerns, including the BC Ministry of Energy and Mines, who raised a number of critical concerns with TML's mitigation plan to recirculate water in Teztan Biny (Fish Lake). As just one example, the Panel Report notes that, "The Ministry [of Energy and Mines] concluded that...Fish Lake might require recirculation in perpetuity, and that the proposed target water quality objectives for Fish Lake could be either technically or financially unachievable."<sup>3</sup> The resulting findings of significant adverse effects were therefore of no surprise to anyone who participated in the review.

To meaningfully participate in that process also required extensive financial resources (hundreds of thousands of dollars); much more than that which is being offered by the EAO to the Tsilhqot'in National Government ("**TNG**").<sup>4</sup> In fact, the EAO's offer is so low that participating with such minimal resources, when much of the focus is on highly technical issues requiring expensive experts, would put TNG at an enormous and unfair handicap. In effect, it would guarantee a less than meaningful ability to participate.

The scathing findings of the Panel Report confirmed the profound environmental and cultural impacts to the Tsilhqot'in people, and resulted in rejection by the Federal Government. The EAO and TML both accepted this process as *the procedure* by which the EAO would review the amendment application. To reverse course five years later, simply because the Proponent was not happy with the scathing results, is highly prejudicial to the Tsilhqot'in Nation.

Further, the EAO's Revised Procedures are now in direct conflict with recent decisions from the Federal Court: the first a ruling on the Panel Report and Panel review process, and the second ruling on the Federal rejection of the mine. The Federal Court upheld both the Panel

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<sup>1</sup> "[EAO] will rely principally on the federal review Panel environmental assessment...for the information needed for EAO's assessment of the requested amendment", *EAO Procedures for assessment of the proposed amendment to the Environmental Assessment Certificate for the Prosperity Gold-Copper Project*.

<sup>2</sup> Letter, S. Murphy to Chief Alphonse, March 3, 2017, p. 3.

<sup>3</sup> New Prosperity Panel Report, p. 78.

<sup>4</sup> \$20,000 was offered in the letter from S. Murphy to Chief Alphonse, March 3, 2017, p. 8.



Report<sup>5</sup> and the Federal decision<sup>6</sup>, and dismissed TML's applications for judicial review. Costs were awarded to TNG and the Federal Government.

In *Taseko Mines Limited v Minister of the Environment and others*, 2017 FC 1099, the Court concluded that,

- "a) The Panel did not breach any procedural fairness / *audi alteram partem* / legitimate expectation principles; and
- b) The Panel's factual findings were open for it to make and were reasonable."<sup>7</sup>

As a result, the rationale by which the EAO attempted to justify your misguided Revised Procedures no longer exists. In light of the two judgements, we urge the EAO to reconsider this entire process for the amended approval of a mine that simply *cannot be lawfully built*.

The EAO already had almost no credibility in Tsilhqot'in Territory. As you are aware, the actions by the EAO in 2009 and 2010 (and 2015) with respect to the B.C. review process for the Prosperity Mine was a betrayal of the Tsilhqot'in Nation who sought to establish a Joint Panel Review. The EAO refused to establish an independent review panel, and in response, the Tsilhqot'in Nation rejected the legitimacy of the process and B.C.'s 2010 rubber-stamp approval of the mine. The Tsilhqot'in Nation has twice been vindicated by two independent Federal Panel reports and the resulting two Federal rejections of the mine.

As a result of the EAO's Revised Procedures, and with the support of the recent Federal Court decisions, we are not in a position to participate in a whitewash of the Panel Report. This process has lost any credibility it purported to have. Please remove all references to TNG as a member/participant in your working group<sup>8</sup> (e.g. page 1 of the Work Plan).

Further, I would like to clarify a point with respect to TNG's comments before the decision, and a misunderstanding with respect to the "Information to be Considered":

We are distressed that the EAO continues to misunderstand our concern with the original Provincial environmental assessment and its conclusions, based on an incomplete record (see March 7, 2017 letter from myself to Mr. Jardine), as confirmed by the Prosperity Review Panel. We did not ask the EAO to "reconsider or set aside the Ministers' previous approval of Prosperity".<sup>9</sup> Rather, we raised concerns that the EAO's original assessment that the Prosperity Mine would not have significant impacts on Tsilhqot'in rights and interests was based on an incomplete record.<sup>10</sup> We asked for a fresh assessment of impacts on Tsilhqot'in current use of these lands and waters for traditional purposes, Tsilhqot'in cultural heritage, Tsilhqot'in historical and archaeological sites, Tsilhqot'in socio-economic

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<sup>5</sup> *Taseko Mines Limited v Minister of the Environment and others*, 2017 FC 1099.

<sup>6</sup> *Taseko Mines Limited v Minister of the Environment and others*, 2017 FC 1100.

<sup>7</sup> *Taseko Mines Limited v Minister of the Environment and others*, 2017 FC 1099, para. 125.

<sup>8</sup> An example of reference to TNG as a member of the Working Group can be found on page 1 of the Work Plan.

<sup>9</sup> Letter, K. Jardine to J.P. Laplante, June 12, 2017, p. 4.

<sup>10</sup> *Prosperity Panel Report*, pp. i-ii, 29-31.

well-being and Tsilhqot'in Aboriginal rights. For the amendment process to continue to rely upon the erroneous conclusions from 2010 is another deep flaw in the Revised Procedures.

Sincerely,



---

**J.P. Laplante**

TNG Mining, Oil and Gas Manager

cc. *Tsilhqot'in Chiefs*  
*Gary Crowe (TNG Executive Director)*

**IN THE MATTER OF  
THE *ENVIRONMENTAL ASSESSMENT ACT*, S.B.C. 2018, c. 51 [ACT (2018)]**

**AND**

**AN APPLICATION TO EXTEND ENVIRONMENTAL ASSESSMENT CERTIFICATE  
# M09-02  
(CERTIFICATE)**

**BY  
TASEKO MINES LIMITED**

**FOR THE  
PROSPERITY GOLD-COPPER PROJECT  
(PROJECT)**

**ORDER RESPECING THE TIME BY WHICH FEES MUST BE PAID UNDER  
ENVIRONMENTAL ASSESSMENT FEES REGULATION (246/2019)  
(FEE REGULATION)**

**WHEREAS:**

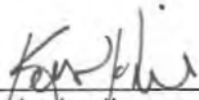
- A. Under the Certificate issued to Taseko Mines Ltd. (Taseko) on January 14, 2010, the Ministers required Taseko to substantially start the Project by January 14, 2015.
- B. On January 13, 2015, the Certificate was extended under Section 18(2) of the Environmental Assessment Act S.B.C. 2002, c.43 until January 14, 2020.
- C. Taseko applied to the Chief Executive Assessment Officer for an extension of this date on December 12, 2019 under Section 31(2) of the Act (2018).
- D. Under Section 31(4) of the Act (2018), the Chief Executive Assessment Officer may extend the deadline specified in the Certificate, on one occasion only, for not more than five years.
- E. A regulation under Section 77(2)(h) of the Act (2018) was deposited on December 19, 2019 (the Exemption Regulation No. 2) specifying that the provision of the Act (2018) that limits extensions to "one occasion only" does not apply to the Certificate if the deadline is not extended beyond January 14, 2021.

F. An application for an extension is subject to a fee set out in Section 2 of the Fee Regulation.

G. I consider that payment of the fee should be consistent with the terms of the extension order issued by me on January 13, 2020.

**NOW THEREFORE:**

Pursuant to Section 2(3) of the Fee Regulation, I order that Taseko Mines Ltd. remit payment of \$25,000 plus applicable taxes on or before January 14, 2021 to the Minister of Finance, Province of British Columbia.

  
\_\_\_\_\_  
Kevin Jardine  
Chief Executive Assessment Officer  
Environmental Assessment Office

Dated January 16, 2020



File: 30200-25/PROSPERITY-18

Reference: 355007

January 16, 2020

**SENT VIA EMAIL**

Stuart McDonald  
President  
Taseko Mines Limited  
1500-1040 West Georgia Street  
Vancouver BC V6E 4H1  
c/o [abrooks@tasekomines.com](mailto:abrooks@tasekomines.com)

Dear Stuart McDonald:

I am writing with respect to your December 12, 2019, application to extend the Environmental Assessment Certificate for the Prosperity Gold-Copper Project (Project), which was granted by way of the Order to extend the deadline for Certificate # M09-02 on January 13, 2020. The Environmental Assessment Fee Regulation (Reg 246/2019) prescribes a \$25,000 fee for applications for an extension under Section 31(2) of the Act. The only discretion invested in the Chief Executive Assessment Officer in this regard pertains to the time by which the fee must be paid.

In consideration of the purpose of the extension period jointly requested by Taseko and T̓silhqot'in Nation to affect a standstill of outstanding litigation and other activities in relation to the Project, I have set the payment date to follow the extension period. Accordingly, and consistent with the Order to extend the deadline for Certificate # M09-02, I have set the date as January 14, 2021. An invoice will be issued for the fee and applicable taxes approximately 30 days prior to the deadline set in the Order.

If you have any questions or concerns about this, please feel free to contact me or Project Assessment Director, Fern Stockman.

With very best regards,

Kevin Jardine  
Chief Environmental Assessment Officer

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Environmental  
Assessment  
Office

Office of the  
Associate  
Deputy Minister

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
2<sup>nd</sup> Fl – 836 Yates St  
Victoria BC V8W 1L8

Attachment (1)

cc: Fern Stockman, Project Assessment Director, Environmental Assessment Office  
[Fern.Stockman@gov.bc.ca](mailto:Fern.Stockman@gov.bc.ca)

Shelley Murphy, Executive Project Director, Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Willie Sellars  
Williams Lake Indian Band  
2672 Indian Drive  
Williams Lake, B.C. V2G 5K9  
[willie.sellars@williamslakeband.ca](mailto:willie.sellars@williamslakeband.ca)

Dear Chief Willie Sellars:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

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**Environmental  
Assessment  
Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

In order to provide the option for the Chief Executive Assessment Officer to consider a further extension to the Certificate, a regulation has been made under Section 77(2)(h) of the Act specifying that the provision of the Act that limits extensions to “one occasion only” (located in Section 31(4)(a) of the Act) does not apply to Prosperity. That is, this regulation enables the Chief Executive Assessment Officer under the Act to make a decision on whether to extend the duration of the Certificate as requested by the Parties, for a period of one year to January 14, 2021.

Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Williams Lake Indian Band if the changes will have a potential effect on Williams Lake Indian Band’s asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

The T̓silhqot’in Nation has indicated that it would welcome the opportunity to discuss this request with you directly and has identified Jay Nelson, at (778) 678-4699 or [jay@jaynelsonlaw.com](mailto:jay@jaynelsonlaw.com) as the point of contact.



Yours truly,

A handwritten signature in black ink, appearing to read 'Fern Stockman', with a long horizontal flourish extending to the right.

Fern Stockman  
Project Assessment Director

Attachment (1)

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Rhonda Leech, Senior Lands & Resource Manager  
Williams Lake Indian Band  
[Rhonda.Leech@williamslakeband.ca](mailto:Rhonda.Leech@williamslakeband.ca)

## FW: Prosperity Amendment: Correspondence from the EAO

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
Sent: December 17, 2019 3:11:31 PM PST  
Attachments: Relayed: Prosperity Amendment: Correspondence from the EAO, 354185\_Prosperty\_Incoming.pdf, image001.png, 354354\_Xatsull\_Final.pdf

---

**From:** Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
**Sent:** December 17, 2019 2:54 PM  
**To:** chief@xatsull.com; admin@xatsull.com  
**Cc:** Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>; Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>; nrmanager@xatsull.com  
**Subject:** Prosperity Amendment: Correspondence from the EAO

Good afternoon Chief Sellars,

Please find attached correspondence from the Environmental Assessment Office, sent on behalf of Fern Stockman, Project Assessment Director.

Warm regards,

**JESSICA WARNER**

Administrative Assistant | Mining Sector  
Environmental Assessment Office  
Government of British Columbia  
OFFICE: 778 974-3440



***The EAO respectfully acknowledges that it carries out its work on the traditional territories of Indigenous nations throughout British Columbia.***

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## **Relayed: Prosperity Amendment: Correspondence from the EAO**

---

From: Microsoft Outlook  
s.16

To: Jessica.Warner@gov.bc.ca, chief@xatsull.com, nrmanager@xatsull.com  
Sent: December 17, 2019 2:54:17 PM PST  
Attachments: Prosperity Amendment: Correspondence from the EAO

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[chief@xatsull.com](mailto:chief@xatsull.com)

[nrmanager@xatsull.com](mailto:nrmanager@xatsull.com)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: chief@xatsull.com, admin@xatsull.com  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, nrmanager@xatsull.com  
Sent: December 17, 2019 2:54:11 PM PST

December 12, 2019

The Honourable George Heyman  
Minister of Environment

Kevin Jardine  
Associate Deputy Minister  
Ministry of Environment

Dear Sirs/Mesdames:

**Re: Joint Request of the T̓silhqot'in Nation (the "T̓silhqot'in") and Taseko Mines Limited ("Taseko")**

---

This letter is written jointly on behalf of the T̓silhqot'in and Taseko (collectively, the "Parties").

Taseko holds certain mineral tenures (collectively, the "Tenures") within a portion of the T̓silhqot'in traditional territory over which the T̓silhqot'in hold certain established Aboriginal rights. Taseko wishes to develop a mine project within its Tenures, the design of which has been known as the Prosperity or New Prosperity project from time to time (the "Project"). The T̓silhqot'in Nation opposes the Project.

Taseko currently holds, among other permits and authorizations, Environmental Assessment Certificate #M09-02 (the "Certificate") in relation to the Project. The Certificate is set to expire January 14, 2020.

The Parties have agreed to effect a standstill of outstanding litigation and other activities in relation to the Project in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between them relating to the Project, acknowledging Taseko's commercial interests and T̓silhqot'in opposition to the Project. To that end, the Parties hereby jointly request that the Province take the necessary steps to implement such regulatory or statutory decision-making processes as may be required to:

1. Extend the term of the Certificate for 12 months from the current expiry date of the Certificate, without penalty to Taseko; and
2. Hold in abeyance Taseko's application to amend the Certificate, which application currently remains under consideration by the Province, until further notice from Taseko and, in any event, until December 5, 2020 at the earliest.

To the extent possible, the Parties request that a decision regarding the request for the extension set out in paragraph 1 above be made and communicated to the Parties within 60 days of the date of this letter.

The Parties further request that, to the extent possible, any extension to the Certificate granted in response to the request set out in paragraph 1 above should be effected by the Province in a manner that preserves any existing rights to an extension (either by way of application or as of right) of the Certificate as held by Taseko as at the date of this joint request and the joint requests made herein are expressly without prejudice to any such existing extension rights held by Taseko.

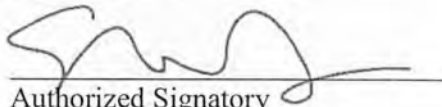
For clarity, the request to extend the Certificate is without prejudice to the position of the T̓silhqot'in (with which Taseko disagrees) that, absent the enactment of a further legislative or regulatory instrument, no further extensions of the Certificate are available to Taseko under s. 18 of the *Environmental Assessment Act* (2002) or the comparable provisions of the *Environmental Assessment Act* (2018) (upon coming into force).

Please do not hesitate to contact us should you have any questions regarding this request.

Yours truly,

**TASEKO MINES LIMITED**

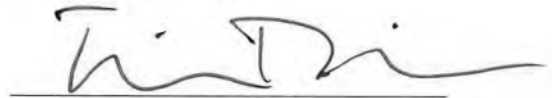
Per:



Authorized Signatory  
Stuart McDonald – President –  
Taseko Mines Limited

**T̓SILHQOT'IN NATION**

Per:



Authorized Signatory  
Tim Dickson  
JFK Law Corporation  
Counsel for the T̓silhqot'in Nation



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Sheri Sellars  
Xat'sull First Nation  
3405 Mountain House Road  
Williams Lake, B.C. V2G 5L5  
[chief@xatsull.com](mailto:chief@xatsull.com); [admin@xatsull.com](mailto:admin@xatsull.com)

Dear Chief Sheri Sellars:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

...2

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**Environmental  
Assessment  
Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

In order to provide the option for the Chief Executive Assessment Officer to consider a further extension to the Certificate, a regulation has been made under Section 77(2)(h) of the Act specifying that the provision of the Act that limits extensions to “one occasion only” (located in Section 31(4)(a) of the Act) does not apply to Prosperity. That is, this regulation enables the Chief Executive Assessment Officer under the Act to make a decision on whether to extend the duration of the Certificate as requested by the Parties, for a period of one year to January 14, 2021.

Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Xatśúll First Nation if the changes will have a potential effect on Xatśúll First Nation’s asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

The T̓silhqot'in Nation has indicated that it would welcome the opportunity to discuss this request with you directly and has identified Jay Nelson, at (778) 678-4699 or [jay@jaynelsonlaw.com](mailto:jay@jaynelsonlaw.com) as the point of contact.

...3



Yours truly,

A handwritten signature in black ink, appearing to read 'Fern Stockman', with a long horizontal flourish extending to the right.

Fern Stockman  
Project Assessment Director

Attachment (1)

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Natural Resource Manager, Xatśūll First Nation  
[nrmanager@xatsull.com](mailto:nrmanager@xatsull.com)

## FW: Prosperity Amendment: Correspondence from the EAO

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
Sent: December 17, 2019 2:55:19 PM PST  
Attachments: Relayed: Prosperity Amendment: Correspondence from the EAO, 354185\_Prosperty\_Incoming.pdf, Relayed: Prosperity Amendment: Correspondence from the EAO, image003.png, 354354\_Esdilagh\_Final.pdf

---

**From:** Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>

**Sent:** December 17, 2019 2:53 PM

**To:** kordaroy1955@gmail.com; tsilhqotin.seniya@gmail.com

**Cc:** Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>; Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>; jphilbrick@tsilhqotin.ca; jlaplante@tsilhqotin.ca; luke@tsilhqotin.ca

**Subject:** Prosperity Amendment: Correspondence from the EAO

Good afternoon Chief Stump,

Please find attached correspondence from the Environmental Assessment Office, sent on behalf of Fern Stockman, Project Assessment Director.

Warm regards,

**JESSICA WARNER**

Administrative Assistant | Mining Sector

Environmental Assessment Office

Government of British Columbia

OFFICE: 778 974-3440



***The EAO respectfully acknowledges that it carries out its work on the traditional territories of Indigenous nations throughout British Columbia.***

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## **Relayed: Prosperity Amendment: Correspondence from the EAO**

---

From: Microsoft Outlook  
s.16

To: Jessica.Warner@gov.bc.ca, jphilbrick@tsilhqotin.ca, luke@tsilhqotin.ca,  
jlaplante@tsilhqotin.ca

Sent: December 17, 2019 2:53:10 PM PST

Attachments: Prosperity Amendment: Correspondence from the EAO

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: kordaroy1955@gmail.com, tsilhqotin.seniya@gmail.com  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca  
Sent: December 17, 2019 2:53:03 PM PST

December 12, 2019

The Honourable George Heyman  
Minister of Environment

Kevin Jardine  
Associate Deputy Minister  
Ministry of Environment

Dear Sirs/Mesdames:

**Re: Joint Request of the T̓silhqot'in Nation (the "T̓silhqot'in") and Taseko Mines Limited ("Taseko")**

---

This letter is written jointly on behalf of the T̓silhqot'in and Taseko (collectively, the "Parties").

Taseko holds certain mineral tenures (collectively, the "Tenures") within a portion of the T̓silhqot'in traditional territory over which the T̓silhqot'in hold certain established Aboriginal rights. Taseko wishes to develop a mine project within its Tenures, the design of which has been known as the Prosperity or New Prosperity project from time to time (the "Project"). The T̓silhqot'in Nation opposes the Project.

Taseko currently holds, among other permits and authorizations, Environmental Assessment Certificate #M09-02 (the "Certificate") in relation to the Project. The Certificate is set to expire January 14, 2020.

The Parties have agreed to effect a standstill of outstanding litigation and other activities in relation to the Project in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between them relating to the Project, acknowledging Taseko's commercial interests and T̓silhqot'in opposition to the Project. To that end, the Parties hereby jointly request that the Province take the necessary steps to implement such regulatory or statutory decision-making processes as may be required to:

1. Extend the term of the Certificate for 12 months from the current expiry date of the Certificate, without penalty to Taseko; and
2. Hold in abeyance Taseko's application to amend the Certificate, which application currently remains under consideration by the Province, until further notice from Taseko and, in any event, until December 5, 2020 at the earliest.

To the extent possible, the Parties request that a decision regarding the request for the extension set out in paragraph 1 above be made and communicated to the Parties within 60 days of the date of this letter.

The Parties further request that, to the extent possible, any extension to the Certificate granted in response to the request set out in paragraph 1 above should be effected by the Province in a manner that preserves any existing rights to an extension (either by way of application or as of right) of the Certificate as held by Taseko as at the date of this joint request and the joint requests made herein are expressly without prejudice to any such existing extension rights held by Taseko.

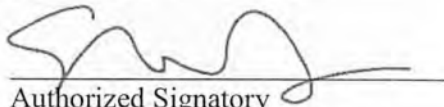
For clarity, the request to extend the Certificate is without prejudice to the position of the T̓silhqot'in (with which Taseko disagrees) that, absent the enactment of a further legislative or regulatory instrument, no further extensions of the Certificate are available to Taseko under s. 18 of the *Environmental Assessment Act* (2002) or the comparable provisions of the *Environmental Assessment Act* (2018) (upon coming into force).

Please do not hesitate to contact us should you have any questions regarding this request.

Yours truly,

**TASEKO MINES LIMITED**

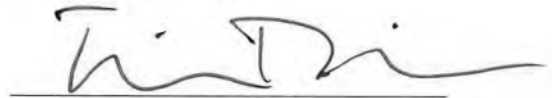
Per:



Authorized Signatory  
Stuart McDonald – President –  
Taseko Mines Limited

**T̓SILHQOT'IN NATION**

Per:



Authorized Signatory  
Tim Dickson  
JFK Law Corporation  
Counsel for the T̓silhqot'in Nation

## **Relayed: Prosperity Amendment: Correspondence from the EAO**

---

From: Microsoft Outlook  
s.16

To: Jessica.Warner@gov.bc.ca, kordaroy1955@gmail.com, tsilhqotin.seniya@gmail.com  
Sent: December 17, 2019 2:53:10 PM PST  
Attachments: Prosperity Amendment: Correspondence from the EAO

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[kordaroy1955@gmail.com](mailto:kordaroy1955@gmail.com)

[tsilhqotin.seniya@gmail.com](mailto:tsilhqotin.seniya@gmail.com)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: kordaroy1955@gmail.com, tsilhqotin.seniya@gmail.com  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca  
Sent: December 17, 2019 2:53:03 PM PST





File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Roy Stump  
?Esdilagh First Nation  
4 – 9001 West Fraser Road  
Quesnel, B.C. V2J 6R4  
[kordaroy1955@gmail.com](mailto:kordaroy1955@gmail.com); [tsilhqotin.seniya@gmail.com](mailto:tsilhqotin.seniya@gmail.com)

Dear Chief Roy Stump:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

...2

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**Environmental  
Assessment  
Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

In order to provide the option for the Chief Executive Assessment Officer to consider a further extension to the Certificate, a regulation has been made under Section 77(2)(h) of the Act specifying that the provision of the Act that limits extensions to "one occasion only" (located in Section 31(4)(a) of the Act) does not apply to Prosperity. That is, this regulation enables the Chief Executive Assessment Officer under the Act to make a decision on whether to extend the duration of the Certificate as requested by the Parties, for a period of one year to January 14, 2021.

Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with ?Esdilagh First Nation if the changes will have a potential effect on ?Esdilagh First Nation's asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

Yours truly,



Fern Stockman  
Project Assessment Director

Attachment (1)

...3

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Jenny Philbrick, Executive Director, T̓silhqot'in National Government  
[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

J.P. Laplante, Oil and Gas Manager, T̓silhqot'in National Government Mining  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Luke Doxtator, Stewardship Manager, T̓silhqot'in National Government  
[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Francis Laceese  
Toosey First Nation  
P.O. Box 80  
Riske Creek, B.C. V0L 1T0  
[chieflaceese@gmail.com](mailto:chieflaceese@gmail.com)

Dear Chief Francis Laceese:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
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Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

...2

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**Environmental  
Assessment  
Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

In order to provide the option for the Chief Executive Assessment Officer to consider a further extension to the Certificate, a regulation has been made under Section 77(2)(h) of the Act specifying that the provision of the Act that limits extensions to "one occasion only" (located in Section 31(4)(a) of the Act) does not apply to Prosperity. That is, this regulation enables the Chief Executive Assessment Officer under the Act to make a decision on whether to extend the duration of the Certificate as requested by the Parties, for a period of one year to January 14, 2021.

Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Toosey First Nation if the changes will have a potential effect on Toosey First Nation's asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

Yours truly,

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

Fern Stockman  
Project Assessment Director

Attachment (1)

...3

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Jenny Philbrick, Executive Director, T̓silhqot'in National Government  
[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

J.P. Laplante, Oil and Gas Manager, T̓silhqot'in National Government Mining  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Luke Doxtator, Stewardship Manager, T̓silhqot'in National Government  
[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

Nonita Johnny, Toosey First Nation  
[nonitaj@tsilhqotin.ca](mailto:nonitaj@tsilhqotin.ca)



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Harry Patrick  
Stswecem'c Xgat'tem First Nation  
General Delivery  
Dog Creek, B.C. V0L 1J0  
[chief@canoecreekband.ca](mailto:chief@canoecreekband.ca)

Dear Chief Harry Patrick:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in National Government Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in National Government opposition to the project.

In the joint letter, the Parties have requested that the EAO:

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- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation,

...2

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**Environmental  
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Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

In order to provide the option for the Chief Executive Assessment Officer to consider a further extension to the Certificate, a regulation has been made under Section 77(2)(h) of the Act specifying that the provision of the Act that limits extensions to "one occasion only" (located in Section 31(4)(a) of the Act) does not apply to Prosperity. That is, this regulation enables the Chief Executive Assessment Officer under the Act to make a decision on whether to extend the duration of the Certificate as requested by the Parties, for a period of one year to January 14, 2021.

Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Stswecem'c Xgat'tem First Nation if the changes will have a potential effect on Stswecem'c Xgat'tem First Nation's asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

The T̓silhqot'in Nation has indicated that it would welcome the opportunity to discuss this request with you directly and has identified Jay Nelson, at (778) 678-4699 or [jay@jaynelsonlaw.com](mailto:jay@jaynelsonlaw.com) as the point of contact.



Yours truly,

A handwritten signature in black ink, appearing to read 'Fern Stockman', with a long horizontal flourish extending to the right.

Fern Stockman  
Project Assessment Director

Attachment (1)

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Georgina Preston, Stewardship Coordinator  
Stswecem'c Xgat'tem First Nation  
[stewardship@canoecreekband.ca](mailto:stewardship@canoecreekband.ca)



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Fredrick Robbins  
Esk'etemc  
P.O. Box 157  
Alkali Lake, B.C. V0L 1B0  
[fredr@esketemc.ca](mailto:fredr@esketemc.ca)

Dear Chief Fredrick Robbins:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

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**Environmental  
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Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

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Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Esk’etemc if the changes will have a potential effect on Esk’etemc’s asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

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Yours truly,

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Fern Stockman  
Project Assessment Director

Attachment (1)

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Cary Johnson, Referrals Worker  
[referrals@esketemc.ca](mailto:referrals@esketemc.ca)

Doreen M. Johnson, Lands & Resources Director  
[govadvisor@esketemc.ca](mailto:govadvisor@esketemc.ca)



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Roy Stump  
?Esdilagh First Nation  
4 – 9001 West Fraser Road  
Quesnel, B.C. V2J 6R4  
[kordaroy1955@gmail.com](mailto:kordaroy1955@gmail.com); [tsilhqotin.seniya@gmail.com](mailto:tsilhqotin.seniya@gmail.com)

Dear Chief Roy Stump:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

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Yours truly,

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Fern Stockman  
Project Assessment Director

Attachment (1)

...3

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Jenny Philbrick, Executive Director, T̓silhqot'in National Government  
[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

J.P. Laplante, Oil and Gas Manager, T̓silhqot'in National Government Mining  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Luke Doxtator, Stewardship Manager, T̓silhqot'in National Government  
[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Roy Fletcher and Council  
High Bar First Nation  
P.O. Box 458  
Clinton, B.C. V0K 1K0  
[roy@hbfnc.ca](mailto:roy@hbfnc.ca)

Dear Chief Roy Fletcher & Council:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

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Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

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Victoria BC V8W 9V1

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Victoria BC V8W 1L8



and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

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Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with High Bar First Nation if the changes will have a potential effect on High Bar First Nation’s asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

The T̓silhqot’in Nation has indicated that it would welcome the opportunity to discuss this request with you directly and has identified Jay Nelson, at (778) 678-4699 or [jay@jaynelsonlaw.com](mailto:jay@jaynelsonlaw.com) as the point of contact.

Yours truly,

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

Fern Stockman  
Project Assessment Director

Attachment (1)

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Judah Vickers, Archaeology Department and Interim Referral Worker  
High Bar First Nation  
[naturalresources@hbfnc.ca](mailto:naturalresources@hbfnc.ca); [office@hbfnc.ca](mailto:office@hbfnc.ca)



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Joe Alphonse  
Tl'etinqox Government  
P.O. Box 168  
Alexis Creek, B.C. V0L 1A0  
[chiefjoe@tletinqox.ca](mailto:chiefjoe@tletinqox.ca)

Dear Chief Joe Alphonse:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
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Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

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Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

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Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with TI'etinqox Government if the changes will have a potential effect on TI'etinqox Government's asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

Yours truly,

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

Fern Stockman  
Project Assessment Director

Attachment (1)

...3

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Jenny Philbrick, Executive Director, T̓silhqot'in National Government  
[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

J.P. Laplante, Oil and Gas Manager, T̓silhqot'in National Government Mining  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Luke Doxtator, Stewardship Manager, T̓silhqot'in National Government  
[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Otis Guichon Sr.  
Alexis Creek First Nation | T̓sideldel  
P.O. Box 66  
Cilkano Forks, B.C. V0L 1H0  
[chief@tsideldel.org](mailto:chief@tsideldel.org)

Dear Chief Otis Guichon Sr.:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the T̓silhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and T̓silhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and T̓silhqot'in opposition to the project.

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Yours truly,

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Fern Stockman  
Project Assessment Director

Attachment (1)

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Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

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Luke Doxtator, Stewardship Manager, T̓silhqot'in National Government  
[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

Councillor Maryanne Boyd  
[manager@tsideldel.org](mailto:manager@tsideldel.org)

Councillor Case Anges  
[anges@tsideldel.org](mailto:anges@tsideldel.org)

Councillor Rocky Guichon  
s.22

Councillor Nicole Setah  
[nsetah@tsideldel.org](mailto:nsetah@tsideldel.org)

Councillor Talia Baptiste  
[research-writer@tsideldel.org](mailto:research-writer@tsideldel.org)

Councillor Percy Guichon  
[percy@tsideldel.org](mailto:percy@tsideldel.org)





File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Jimmy Lulua  
Xeni Gwet'in First Nations Government  
General Delivery  
Nemiah Valley, B.C. V0L 1X0  
[jimmyj@gmail.com](mailto:jimmyj@gmail.com)

Dear Chief Jimmy Lulua:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

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Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Xeni Gwet'in First Nations Government if the changes will have a potential effect on Xeni Gwet'in First Nations Government's asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

Yours truly,



Fern Stockman  
Project Assessment Director

Attachment (1)

...3

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Jenny Philbrick, Executive Director, T̓silhqot'in National Government  
[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

J.P. Laplante, Oil and Gas Manager, T̓silhqot'in National Government Mining  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Luke Doxtator, Stewardship Manager, T̓silhqot'in National Government  
[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Sheri Sellars  
Xat'sull First Nation  
3405 Mountain House Road  
Williams Lake, B.C. V2G 5L5  
[chief@xatsull.com](mailto:chief@xatsull.com); [admin@xatsull.com](mailto:admin@xatsull.com)

Dear Chief Sheri Sellars:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

...2

---

**Environmental  
Assessment  
Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

In order to provide the option for the Chief Executive Assessment Officer to consider a further extension to the Certificate, a regulation has been made under Section 77(2)(h) of the Act specifying that the provision of the Act that limits extensions to “one occasion only” (located in Section 31(4)(a) of the Act) does not apply to Prosperity. That is, this regulation enables the Chief Executive Assessment Officer under the Act to make a decision on whether to extend the duration of the Certificate as requested by the Parties, for a period of one year to January 14, 2021.

Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Xatśúll First Nation if the changes will have a potential effect on Xatśúll First Nation’s asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

The T̓silhqot’in Nation has indicated that it would welcome the opportunity to discuss this request with you directly and has identified Jay Nelson, at (778) 678-4699 or [jay@jaynelsonlaw.com](mailto:jay@jaynelsonlaw.com) as the point of contact.

...3

Yours truly,

A handwritten signature in black ink, appearing to read 'Fern Stockman', with a stylized, flowing script.

Fern Stockman  
Project Assessment Director

Attachment (1)

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Natural Resource Manager, Xatśūll First Nation  
[nrmanager@xatsull.com](mailto:nrmanager@xatsull.com)



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Russel Myers Ross  
Yunesit'in Government  
P.O. Box 158  
Hanceville, B.C. V0L 1K0  
[russmyers71@gmail.com](mailto:russmyers71@gmail.com)

Dear Chief Russel Myers Ross:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

...2

---

**Environmental  
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Office**

Mailing Address:  
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Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

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Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Yunesit'in Government if the changes will have a potential effect on Yunesit'in Government's asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

Yours truly,



Fern Stockman  
Project Assessment Director

Attachment (1)

...3



cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Jenny Philbrick, Executive Director, T̓silhqot'in National Government  
[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

J.P. Laplante, Oil and Gas Manager, T̓silhqot'in National Government Mining  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Luke Doxtator, Stewardship Manager, T̓silhqot'in National Government  
[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

Jessica Setah, Referral Worker  
Yunesit'in Government  
[jsetah@hotmail.com](mailto:jsetah@hotmail.com)

Dwayne Emerson, Referral Submission Band Manager  
Yunesit'in Government  
[bandmanager@yunesitin.ca](mailto:bandmanager@yunesitin.ca)

## FW: Prosperity Amendment: Correspondence from the EAO

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
Sent: December 17, 2019 2:56:09 PM PST  
Attachments: 354185\_Prosperty\_Incoming.pdf, Relayed: Prosperity Amendment: Correspondence from the EAO, Relayed: Prosperity Amendment: Correspondence from the EAO, image001.png, 354354\_Tl'etinqox\_Final.pdf

---

**From:** Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>

**Sent:** December 17, 2019 2:54 PM

**To:** chiefjoe@tletinqox.ca

**Cc:** Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>; Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>; jphilbrick@tsilhqotin.ca; jlaplante@tsilhqotin.ca; luke@tsilhqotin.ca

**Subject:** Prosperity Amendment: Correspondence from the EAO

Good afternoon Chief Alphonse,

Please find attached correspondence from the Environmental Assessment Office, sent on behalf of Fern Stockman, Project Assessment Director.

Warm regards,

**JESSICA WARNER**

Administrative Assistant | Mining Sector

Environmental Assessment Office

Government of British Columbia

OFFICE: 778 974-3440



***The EAO respectfully acknowledges that it carries out its work on the traditional territories of Indigenous nations throughout British Columbia.***

*This e-mail is confidential and is intended only for the person(s) to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you received this e-mail in error, please destroy this e-mail and contact me directly.*

December 12, 2019

The Honourable George Heyman  
Minister of Environment

Kevin Jardine  
Associate Deputy Minister  
Ministry of Environment

Dear Sirs/Mesdames:

**Re: Joint Request of the T̓silhqot'in Nation (the "T̓silhqot'in") and Taseko Mines Limited ("Taseko")**

---

This letter is written jointly on behalf of the T̓silhqot'in and Taseko (collectively, the "Parties").

Taseko holds certain mineral tenures (collectively, the "Tenures") within a portion of the T̓silhqot'in traditional territory over which the T̓silhqot'in hold certain established Aboriginal rights. Taseko wishes to develop a mine project within its Tenures, the design of which has been known as the Prosperity or New Prosperity project from time to time (the "Project"). The T̓silhqot'in Nation opposes the Project.

Taseko currently holds, among other permits and authorizations, Environmental Assessment Certificate #M09-02 (the "Certificate") in relation to the Project. The Certificate is set to expire January 14, 2020.

The Parties have agreed to effect a standstill of outstanding litigation and other activities in relation to the Project in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between them relating to the Project, acknowledging Taseko's commercial interests and T̓silhqot'in opposition to the Project. To that end, the Parties hereby jointly request that the Province take the necessary steps to implement such regulatory or statutory decision-making processes as may be required to:

1. Extend the term of the Certificate for 12 months from the current expiry date of the Certificate, without penalty to Taseko; and
2. Hold in abeyance Taseko's application to amend the Certificate, which application currently remains under consideration by the Province, until further notice from Taseko and, in any event, until December 5, 2020 at the earliest.

To the extent possible, the Parties request that a decision regarding the request for the extension set out in paragraph 1 above be made and communicated to the Parties within 60 days of the date of this letter.

The Parties further request that, to the extent possible, any extension to the Certificate granted in response to the request set out in paragraph 1 above should be effected by the Province in a manner that preserves any existing rights to an extension (either by way of application or as of right) of the Certificate as held by Taseko as at the date of this joint request and the joint requests made herein are expressly without prejudice to any such existing extension rights held by Taseko.

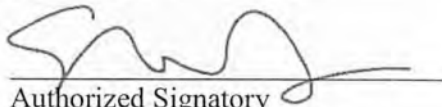
For clarity, the request to extend the Certificate is without prejudice to the position of the T̓silhqot̓in (with which Taseko disagrees) that, absent the enactment of a further legislative or regulatory instrument, no further extensions of the Certificate are available to Taseko under s. 18 of the *Environmental Assessment Act* (2002) or the comparable provisions of the *Environmental Assessment Act* (2018) (upon coming into force).

Please do not hesitate to contact us should you have any questions regarding this request.

Yours truly,

**TASEKO MINES LIMITED**

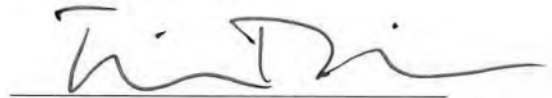
Per:



Authorized Signatory  
Stuart McDonald – President –  
Taseko Mines Limited

**T̓SILHQOT̓IN NATION**

Per:



Authorized Signatory  
Tim Dickson  
JFK Law Corporation  
Counsel for the T̓silhqot̓in Nation

## **Relayed: Prosperity Amendment: Correspondence from the EAO**

---

From: Microsoft Outlook  
s.16

To: Jessica.Warner@gov.bc.ca, jphilbrick@tsilhqotin.ca, luke@tsilhqotin.ca,  
jlaplante@tsilhqotin.ca

Sent: December 17, 2019 2:53:37 PM PST

Attachments: Prosperity Amendment: Correspondence from the EAO

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: chiefjoe@tletincox.ca  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca  
Sent: December 17, 2019 2:53:30 PM PST

## **Relayed: Prosperity Amendment: Correspondence from the EAO**

---

From: Microsoft Outlook  
s.16

To: Jessica.Warner@gov.bc.ca, chiefjoe@tletinqox.ca

Sent: December 17, 2019 2:53:38 PM PST

Attachments: Prosperity Amendment: Correspondence from the EAO

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[chiefjoe@tletinqox.ca](mailto:chiefjoe@tletinqox.ca)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

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From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: chiefjoe@tletincox.ca  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca  
Sent: December 17, 2019 2:53:30 PM PST





File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Joe Alphonse  
Tl'etinqox Government  
P.O. Box 168  
Alexis Creek, B.C. V0L 1A0  
[chiefjoe@tletinqox.ca](mailto:chiefjoe@tletinqox.ca)

Dear Chief Joe Alphonse:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

...2

---

**Environmental  
Assessment  
Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

In order to provide the option for the Chief Executive Assessment Officer to consider a further extension to the Certificate, a regulation has been made under Section 77(2)(h) of the Act specifying that the provision of the Act that limits extensions to "one occasion only" (located in Section 31(4)(a) of the Act) does not apply to Prosperity. That is, this regulation enables the Chief Executive Assessment Officer under the Act to make a decision on whether to extend the duration of the Certificate as requested by the Parties, for a period of one year to January 14, 2021.

Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with TI'etinqox Government if the changes will have a potential effect on TI'etinqox Government's asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

Yours truly,

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

Fern Stockman  
Project Assessment Director

Attachment (1)

...3

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Jenny Philbrick, Executive Director, T̓silhqot'in National Government  
[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

J.P. Laplante, Oil and Gas Manager, T̓silhqot'in National Government Mining  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Luke Doxtator, Stewardship Manager, T̓silhqot'in National Government  
[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

## FW: Prosperity Amendment: Correspondence from the EAO

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
Sent: December 17, 2019 2:56:34 PM PST  
Attachments: Delivered: Prosperity Amendment: Correspondence from the EAO, 354185\_Prosperty\_Incoming.pdf, Delivered: Prosperity Amendment: Correspondence from the EAO, Delivered: Prosperity Amendment: Correspondence from the EAO, image001.png, 354354\_High Bar\_Final.pdf

---

**From:** Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>

**Sent:** December 17, 2019 2:53 PM

**To:** roy@hbfnc.ca

**Cc:** Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>; Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>; naturalresources@hbfnc.ca; office@hbfnc.ca

**Subject:** Prosperity Amendment: Correspondence from the EAO

Good afternoon Chief Fletcher & Council,

Please find attached correspondence from the Environmental Assessment Office, sent on behalf of Fern Stockman, Project Assessment Director.

Warm regards,

**JESSICA WARNER**

Administrative Assistant | Mining Sector

Environmental Assessment Office

Government of British Columbia

OFFICE: 778 974-3440



***The EAO respectfully acknowledges that it carries out its work on the traditional territories of Indigenous nations throughout British Columbia.***

*This e-mail is confidential and is intended only for the person(s) to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you received this e-mail in error, please destroy this e-mail and contact me directly.*

## **Delivered: Prosperity Amendment: Correspondence from the EAO**

---

From: postmaster@hbfnc.ca  
To: Jessica.Warner@gov.bc.ca, office@hbfnc.ca  
Sent: December 17, 2019 2:53:44 PM PST  
Attachments: Prosperity Amendment: Correspondence from the EAO

### **Your message has been delivered to the following recipients:**

[office@hbfnc.ca](mailto:office@hbfnc.ca)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: roy@hbfnc.ca  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, naturalresources@hbfnc.ca, office@hbfnc.ca  
Sent: December 17, 2019 2:53:15 PM PST

December 12, 2019

The Honourable George Heyman  
Minister of Environment

Kevin Jardine  
Associate Deputy Minister  
Ministry of Environment

Dear Sirs/Mesdames:

**Re: Joint Request of the T̓silhqot'in Nation (the "T̓silhqot'in") and Taseko Mines Limited ("Taseko")**

---

This letter is written jointly on behalf of the T̓silhqot'in and Taseko (collectively, the "Parties").

Taseko holds certain mineral tenures (collectively, the "Tenures") within a portion of the T̓silhqot'in traditional territory over which the T̓silhqot'in hold certain established Aboriginal rights. Taseko wishes to develop a mine project within its Tenures, the design of which has been known as the Prosperity or New Prosperity project from time to time (the "Project"). The T̓silhqot'in Nation opposes the Project.

Taseko currently holds, among other permits and authorizations, Environmental Assessment Certificate #M09-02 (the "Certificate") in relation to the Project. The Certificate is set to expire January 14, 2020.

The Parties have agreed to effect a standstill of outstanding litigation and other activities in relation to the Project in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between them relating to the Project, acknowledging Taseko's commercial interests and T̓silhqot'in opposition to the Project. To that end, the Parties hereby jointly request that the Province take the necessary steps to implement such regulatory or statutory decision-making processes as may be required to:

1. Extend the term of the Certificate for 12 months from the current expiry date of the Certificate, without penalty to Taseko; and
2. Hold in abeyance Taseko's application to amend the Certificate, which application currently remains under consideration by the Province, until further notice from Taseko and, in any event, until December 5, 2020 at the earliest.

To the extent possible, the Parties request that a decision regarding the request for the extension set out in paragraph 1 above be made and communicated to the Parties within 60 days of the date of this letter.

The Parties further request that, to the extent possible, any extension to the Certificate granted in response to the request set out in paragraph 1 above should be effected by the Province in a manner that preserves any existing rights to an extension (either by way of application or as of right) of the Certificate as held by Taseko as at the date of this joint request and the joint requests made herein are expressly without prejudice to any such existing extension rights held by Taseko.

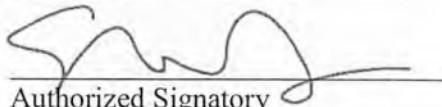
For clarity, the request to extend the Certificate is without prejudice to the position of the T̓silhqot'in (with which Taseko disagrees) that, absent the enactment of a further legislative or regulatory instrument, no further extensions of the Certificate are available to Taseko under s. 18 of the *Environmental Assessment Act* (2002) or the comparable provisions of the *Environmental Assessment Act* (2018) (upon coming into force).

Please do not hesitate to contact us should you have any questions regarding this request.

Yours truly,

**TASEKO MINES LIMITED**

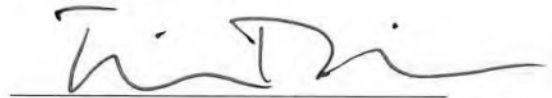
Per:



Authorized Signatory  
Stuart McDonald – President –  
Taseko Mines Limited

**T̓SILHQOT'IN NATION**

Per:



Authorized Signatory  
Tim Dickson  
JFK Law Corporation  
Counsel for the T̓silhqot'in Nation



## **Delivered: Prosperity Amendment: Correspondence from the EAO**

---

From: postmaster@hbfnc.ca  
To: Jessica.Warner@gov.bc.ca, roy@hbfnc.ca  
Sent: December 17, 2019 2:53:43 PM PST  
Attachments: Prosperity Amendment: Correspondence from the EAO

**Your message has been delivered to the following recipients:**

[roy@hbfnc.ca](mailto:roy@hbfnc.ca)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: roy@hbfnc.ca  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, naturalresources@hbfnc.ca, office@hbfnc.ca  
Sent: December 17, 2019 2:53:15 PM PST

## **Delivered: Prosperity Amendment: Correspondence from the EAO**

---

From: postmaster@hbfm.ca  
To: Jessica.Warner@gov.bc.ca, naturalresources@hbfm.ca  
Sent: December 17, 2019 2:53:42 PM PST  
Attachments: Prosperity Amendment: Correspondence from the EAO

### **Your message has been delivered to the following recipients:**

[naturalresources@hbfm.ca](mailto:naturalresources@hbfm.ca)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: roy@hbfnc.ca  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, naturalresources@hbfnc.ca, office@hbfnc.ca  
Sent: December 17, 2019 2:53:15 PM PST



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Roy Fletcher and Council  
High Bar First Nation  
P.O. Box 458  
Clinton, B.C. V0K 1K0  
[roy@hbfnc.ca](mailto:roy@hbfnc.ca)

Dear Chief Roy Fletcher & Council:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

...2

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**Environmental  
Assessment  
Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

In order to provide the option for the Chief Executive Assessment Officer to consider a further extension to the Certificate, a regulation has been made under Section 77(2)(h) of the Act specifying that the provision of the Act that limits extensions to “one occasion only” (located in Section 31(4)(a) of the Act) does not apply to Prosperity. That is, this regulation enables the Chief Executive Assessment Officer under the Act to make a decision on whether to extend the duration of the Certificate as requested by the Parties, for a period of one year to January 14, 2021.

Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with High Bar First Nation if the changes will have a potential effect on High Bar First Nation’s asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

The T̓silhqot’in Nation has indicated that it would welcome the opportunity to discuss this request with you directly and has identified Jay Nelson, at (778) 678-4699 or [jay@jaynelsonlaw.com](mailto:jay@jaynelsonlaw.com) as the point of contact.

Yours truly,

A handwritten signature in black ink, appearing to read 'Fern Stockman', with a long horizontal flourish extending to the right.

Fern Stockman  
Project Assessment Director

Attachment (1)

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Judah Vickers, Archaeology Department and Interim Referral Worker  
High Bar First Nation  
[naturalresources@hbfnc.ca](mailto:naturalresources@hbfnc.ca); [office@hbfnc.ca](mailto:office@hbfnc.ca)

## FW: Prosperity Amendment: Correspondence from the EAO

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
Sent: December 17, 2019 2:54:45 PM PST  
Attachments: Relayed: Prosperity Amendment: Correspondence from the EAO, 354185\_Prosperty\_Incoming.pdf, image001.png, 354354\_Esketemc\_Final.pdf

---

**From:** Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>

**Sent:** December 17, 2019 2:53 PM

**To:** fredr@esketemc.ca

**Cc:** Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>; Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>; referrals@esketemc.ca; govadvisor@esketemc.ca

**Subject:** Prosperity Amendment: Correspondence from the EAO

Good afternoon Chief Robbins,

Please find attached correspondence from the Environmental Assessment Office, sent on behalf of Fern Stockman, Project Assessment Director.

Warm regards,

**JESSICA WARNER**

Administrative Assistant | Mining Sector

Environmental Assessment Office

Government of British Columbia

OFFICE: 778 974-3440



***The EAO respectfully acknowledges that it carries out its work on the traditional territories of Indigenous nations throughout British Columbia.***

*This e-mail is confidential and is intended only for the person(s) to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you received this e-mail in error, please destroy this e-mail and contact me directly.*



## **Relayed: Prosperity Amendment: Correspondence from the EAO**

---

From: Microsoft Outlook  
s.16  
➤  
To: Jessica.Warner@gov.bc.ca, fredr@esketemc.ca, govadvisor@esketemc.ca,  
referrals@esketemc.ca  
Sent: December 17, 2019 2:53:14 PM PST  
Attachments: Prosperity Amendment: Correspondence from the EAO

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[fredr@esketemc.ca](mailto:fredr@esketemc.ca)

[referrals@esketemc.ca](mailto:referrals@esketemc.ca)

[govadvisor@esketemc.ca](mailto:govadvisor@esketemc.ca)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: fredr@esketemc.ca  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, referrals@esketemc.ca, govadvisor@esketemc.ca  
Sent: December 17, 2019 2:53:09 PM PST

December 12, 2019

The Honourable George Heyman  
Minister of Environment

Kevin Jardine  
Associate Deputy Minister  
Ministry of Environment

Dear Sirs/Mesdames:

**Re: Joint Request of the T̓silhqot'in Nation (the "T̓silhqot'in") and Taseko Mines Limited ("Taseko")**

---

This letter is written jointly on behalf of the T̓silhqot'in and Taseko (collectively, the "Parties").

Taseko holds certain mineral tenures (collectively, the "Tenures") within a portion of the T̓silhqot'in traditional territory over which the T̓silhqot'in hold certain established Aboriginal rights. Taseko wishes to develop a mine project within its Tenures, the design of which has been known as the Prosperity or New Prosperity project from time to time (the "Project"). The T̓silhqot'in Nation opposes the Project.

Taseko currently holds, among other permits and authorizations, Environmental Assessment Certificate #M09-02 (the "Certificate") in relation to the Project. The Certificate is set to expire January 14, 2020.

The Parties have agreed to effect a standstill of outstanding litigation and other activities in relation to the Project in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between them relating to the Project, acknowledging Taseko's commercial interests and T̓silhqot'in opposition to the Project. To that end, the Parties hereby jointly request that the Province take the necessary steps to implement such regulatory or statutory decision-making processes as may be required to:

1. Extend the term of the Certificate for 12 months from the current expiry date of the Certificate, without penalty to Taseko; and
2. Hold in abeyance Taseko's application to amend the Certificate, which application currently remains under consideration by the Province, until further notice from Taseko and, in any event, until December 5, 2020 at the earliest.

To the extent possible, the Parties request that a decision regarding the request for the extension set out in paragraph 1 above be made and communicated to the Parties within 60 days of the date of this letter.

The Parties further request that, to the extent possible, any extension to the Certificate granted in response to the request set out in paragraph 1 above should be effected by the Province in a manner that preserves any existing rights to an extension (either by way of application or as of right) of the Certificate as held by Taseko as at the date of this joint request and the joint requests made herein are expressly without prejudice to any such existing extension rights held by Taseko.

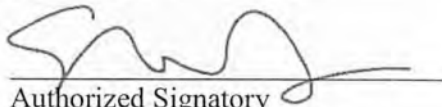
For clarity, the request to extend the Certificate is without prejudice to the position of the T̓silhqot̓'in (with which Taseko disagrees) that, absent the enactment of a further legislative or regulatory instrument, no further extensions of the Certificate are available to Taseko under s. 18 of the *Environmental Assessment Act* (2002) or the comparable provisions of the *Environmental Assessment Act* (2018) (upon coming into force).

Please do not hesitate to contact us should you have any questions regarding this request.

Yours truly,

**TASEKO MINES LIMITED**

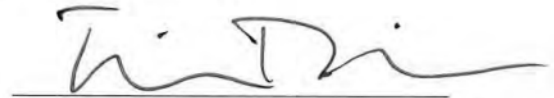
Per:



Authorized Signatory  
Stuart McDonald – President –  
Taseko Mines Limited

**T̓SILHQOT̓'IN NATION**

Per:



Authorized Signatory  
Tim Dickson  
JFK Law Corporation  
Counsel for the T̓silhqot̓'in Nation



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Fredrick Robbins  
Esk'etemc  
P.O. Box 157  
Alkali Lake, B.C. V0L 1B0  
[fredr@esketemc.ca](mailto:fredr@esketemc.ca)

Dear Chief Fredrick Robbins:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

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---

**Environmental  
Assessment  
Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

In order to provide the option for the Chief Executive Assessment Officer to consider a further extension to the Certificate, a regulation has been made under Section 77(2)(h) of the Act specifying that the provision of the Act that limits extensions to “one occasion only” (located in Section 31(4)(a) of the Act) does not apply to Prosperity. That is, this regulation enables the Chief Executive Assessment Officer under the Act to make a decision on whether to extend the duration of the Certificate as requested by the Parties, for a period of one year to January 14, 2021.

Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Esk’etemc if the changes will have a potential effect on Esk’etemc’s asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

The T̓silhqot’in Nation has indicated that it would welcome the opportunity to discuss this request with you directly and has identified Jay Nelson, at (778) 678-4699 or [jay@jaynelsonlaw.com](mailto:jay@jaynelsonlaw.com) as the point of contact.

Yours truly,

A handwritten signature in black ink, appearing to read 'Fern Stockman', with a long horizontal flourish extending to the right.

Fern Stockman  
Project Assessment Director

Attachment (1)

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Cary Johnson, Referrals Worker  
[referrals@esketemc.ca](mailto:referrals@esketemc.ca)

Doreen M. Johnson, Lands & Resources Director  
[govadvisor@esketemc.ca](mailto:govadvisor@esketemc.ca)

## FW: Prosperity Amendment: Correspondence from the EAO

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
Sent: December 17, 2019 2:59:47 PM PST  
Attachments: Delivered: Prosperity Amendment: Correspondence from the EAO, 354354\_Stswecem'c Xgat'tem\_Final.pdf, image001.png, 354185\_Prosperty\_Incoming.pdf

---

**From:** Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>

**Sent:** December 17, 2019 2:53 PM

**To:** chief@canoecreekband.ca

**Cc:** Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>; Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>; stewardship@canoecreekband.ca

**Subject:** Prosperity Amendment: Correspondence from the EAO

Good afternoon Chief Patrick,

Please find attached correspondence from the Environmental Assessment Office, sent on behalf of Fern Stockman, Project Assessment Director.

Warm regards,

**JESSICA WARNER**

Administrative Assistant | Mining Sector

Environmental Assessment Office

Government of British Columbia

OFFICE: 778 974-3440



***The EAO respectfully acknowledges that it carries out its work on the traditional territories of Indigenous nations throughout British Columbia.***

*This e-mail is confidential and is intended only for the person(s) to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you received this e-mail in error, please destroy this e-mail and contact me directly.*



## **Delivered: Prosperity Amendment: Correspondence from the EAO**

---

From: sysadmin@canoecreekband.ca  
To: Jessica.Warner@gov.bc.ca, chief@canoecreekband.ca,  
stewardship@canoecreekband.ca  
Sent: December 17, 2019 2:55:51 PM PST  
Attachments: Prosperity Amendment: Correspondence from the EAO

### **Your message has been delivered to the following recipients:**

[chief@canoecreekband.ca](mailto:chief@canoecreekband.ca)

[stewardship@canoecreekband.ca](mailto:stewardship@canoecreekband.ca)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: chief@canoecreekband.ca  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, stewardship@canoecreekband.ca  
Sent: December 17, 2019 2:53:25 PM PST



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Harry Patrick  
Stswecem'c Xgat'tem First Nation  
General Delivery  
Dog Creek, B.C. V0L 1J0  
[chief@canoecreekband.ca](mailto:chief@canoecreekband.ca)

Dear Chief Harry Patrick:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in National Government Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in National Government opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation,

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**Environmental  
Assessment  
Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

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Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Stswecem'c Xgat'tem First Nation if the changes will have a potential effect on Stswecem'c Xgat'tem First Nation's asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

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Yours truly,

A handwritten signature in black ink, appearing to read 'Fern Stockman', with a long horizontal flourish extending to the right.

Fern Stockman  
Project Assessment Director

Attachment (1)

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Georgina Preston, Stewardship Coordinator  
Stswecem'c Xgat'tem First Nation  
[stewardship@canoecreekband.ca](mailto:stewardship@canoecreekband.ca)

December 12, 2019

The Honourable George Heyman  
Minister of Environment

Kevin Jardine  
Associate Deputy Minister  
Ministry of Environment

Dear Sirs/Mesdames:

**Re: Joint Request of the T̓silhqot'in Nation (the "T̓silhqot'in") and Taseko Mines Limited ("Taseko")**

---

This letter is written jointly on behalf of the T̓silhqot'in and Taseko (collectively, the "Parties").

Taseko holds certain mineral tenures (collectively, the "Tenures") within a portion of the T̓silhqot'in traditional territory over which the T̓silhqot'in hold certain established Aboriginal rights. Taseko wishes to develop a mine project within its Tenures, the design of which has been known as the Prosperity or New Prosperity project from time to time (the "Project"). The T̓silhqot'in Nation opposes the Project.

Taseko currently holds, among other permits and authorizations, Environmental Assessment Certificate #M09-02 (the "Certificate") in relation to the Project. The Certificate is set to expire January 14, 2020.

The Parties have agreed to effect a standstill of outstanding litigation and other activities in relation to the Project in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between them relating to the Project, acknowledging Taseko's commercial interests and T̓silhqot'in opposition to the Project. To that end, the Parties hereby jointly request that the Province take the necessary steps to implement such regulatory or statutory decision-making processes as may be required to:

1. Extend the term of the Certificate for 12 months from the current expiry date of the Certificate, without penalty to Taseko; and
2. Hold in abeyance Taseko's application to amend the Certificate, which application currently remains under consideration by the Province, until further notice from Taseko and, in any event, until December 5, 2020 at the earliest.

To the extent possible, the Parties request that a decision regarding the request for the extension set out in paragraph 1 above be made and communicated to the Parties within 60 days of the date of this letter.

The Parties further request that, to the extent possible, any extension to the Certificate granted in response to the request set out in paragraph 1 above should be effected by the Province in a manner that preserves any existing rights to an extension (either by way of application or as of right) of the Certificate as held by Taseko as at the date of this joint request and the joint requests made herein are expressly without prejudice to any such existing extension rights held by Taseko.

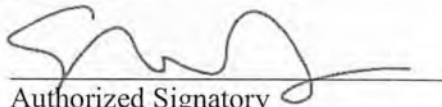
For clarity, the request to extend the Certificate is without prejudice to the position of the T̓silhqot̓'in (with which Taseko disagrees) that, absent the enactment of a further legislative or regulatory instrument, no further extensions of the Certificate are available to Taseko under s. 18 of the *Environmental Assessment Act* (2002) or the comparable provisions of the *Environmental Assessment Act* (2018) (upon coming into force).

Please do not hesitate to contact us should you have any questions regarding this request.

Yours truly,

**TASEKO MINES LIMITED**

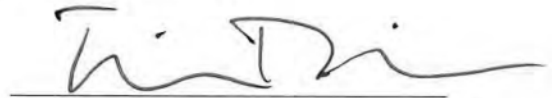
Per:



Authorized Signatory  
Stuart McDonald – President –  
Taseko Mines Limited

**T̓SILHQOT̓'IN NATION**

Per:



Authorized Signatory  
Tim Dickson  
JFK Law Corporation  
Counsel for the T̓silhqot̓'in Nation

## FW: Prosperity Amendment: Correspondence from the EAO

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
Sent: December 17, 2019 3:10:08 PM PST  
Attachments: 354185\_Prosperty\_Incoming.pdf, Relayed: Prosperity Amendment: Correspondence from the EAO, Delivered: Prosperity Amendment: Correspondence from the EAO, image001.png, 354354\_Tsideldel\_Final.pdf

---

**From:** Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>

**Sent:** December 17, 2019 2:54 PM

**To:** chief@tsideldel.org

**Cc:** Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>; Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>; jphilbrick@tsilhqotin.ca; jlaplante@tsilhqotin.ca; luke@tsilhqotin.ca; manager@tsideldel.org; anges@tsideldel.org; <sup>s.22</sup> nsetah@tsideldel.org; research-writer@tsideldel.org; percy@tsideldel.org

**Subject:** Prosperity Amendment: Correspondence from the EAO

Good afternoon Chief Guichon,

Please find attached correspondence from the Environmental Assessment Office, sent on behalf of Fern Stockman, Project Assessment Director.

Warm regards,

**JESSICA WARNER**

Administrative Assistant | Mining Sector

Environmental Assessment Office

Government of British Columbia

OFFICE: 778 974-3440



***The EAO respectfully acknowledges that it carries out its work on the traditional territories of Indigenous nations throughout British Columbia.***

*This e-mail is confidential and is intended only for the person(s) to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you received this e-mail in error, please destroy this e-mail and contact me directly.*



December 12, 2019

The Honourable George Heyman  
Minister of Environment

Kevin Jardine  
Associate Deputy Minister  
Ministry of Environment

Dear Sirs/Mesdames:

**Re: Joint Request of the T̓silhqot'in Nation (the "T̓silhqot'in") and Taseko Mines Limited ("Taseko")**

---

This letter is written jointly on behalf of the T̓silhqot'in and Taseko (collectively, the "Parties").

Taseko holds certain mineral tenures (collectively, the "Tenures") within a portion of the T̓silhqot'in traditional territory over which the T̓silhqot'in hold certain established Aboriginal rights. Taseko wishes to develop a mine project within its Tenures, the design of which has been known as the Prosperity or New Prosperity project from time to time (the "Project"). The T̓silhqot'in Nation opposes the Project.

Taseko currently holds, among other permits and authorizations, Environmental Assessment Certificate #M09-02 (the "Certificate") in relation to the Project. The Certificate is set to expire January 14, 2020.

The Parties have agreed to effect a standstill of outstanding litigation and other activities in relation to the Project in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between them relating to the Project, acknowledging Taseko's commercial interests and T̓silhqot'in opposition to the Project. To that end, the Parties hereby jointly request that the Province take the necessary steps to implement such regulatory or statutory decision-making processes as may be required to:

1. Extend the term of the Certificate for 12 months from the current expiry date of the Certificate, without penalty to Taseko; and
2. Hold in abeyance Taseko's application to amend the Certificate, which application currently remains under consideration by the Province, until further notice from Taseko and, in any event, until December 5, 2020 at the earliest.

To the extent possible, the Parties request that a decision regarding the request for the extension set out in paragraph 1 above be made and communicated to the Parties within 60 days of the date of this letter.

The Parties further request that, to the extent possible, any extension to the Certificate granted in response to the request set out in paragraph 1 above should be effected by the Province in a manner that preserves any existing rights to an extension (either by way of application or as of right) of the Certificate as held by Taseko as at the date of this joint request and the joint requests made herein are expressly without prejudice to any such existing extension rights held by Taseko.

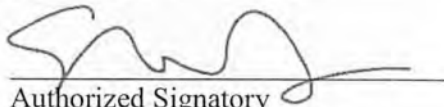
For clarity, the request to extend the Certificate is without prejudice to the position of the T̓silhqot'in (with which Taseko disagrees) that, absent the enactment of a further legislative or regulatory instrument, no further extensions of the Certificate are available to Taseko under s. 18 of the *Environmental Assessment Act* (2002) or the comparable provisions of the *Environmental Assessment Act* (2018) (upon coming into force).

Please do not hesitate to contact us should you have any questions regarding this request.

Yours truly,

**TASEKO MINES LIMITED**

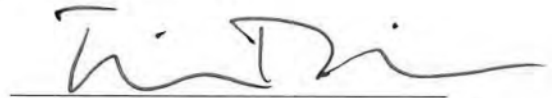
Per:



Authorized Signatory  
Stuart McDonald – President –  
Taseko Mines Limited

**T̓SILHQOT'IN NATION**

Per:



Authorized Signatory  
Tim Dickson  
JFK Law Corporation  
Counsel for the T̓silhqot'in Nation

## **Relayed: Prosperity Amendment: Correspondence from the EAO**

---

From: Microsoft Outlook  
s.16

To: Jessica.Warner@gov.bc.ca, chief@tsideldel.org, nsetah@tsideldel.org,  
percy@tsideldel.org, manager@tsideldel.org

Sent: December 17, 2019 2:54:56 PM PST

Attachments: Prosperity Amendment: Correspondence from the EAO

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[chief@tsideldel.org](mailto:chief@tsideldel.org)

[manager@tsideldel.org](mailto:manager@tsideldel.org)

[nsetah@tsideldel.org](mailto:nsetah@tsideldel.org)

[percy@tsideldel.org](mailto:percy@tsideldel.org)

Subject: Prosperity Amendment: Correspondence from the EAO

## Prosperity Amendment: Correspondence from the EAO

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: chief@tsideldel.org  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca, manager@tsideldel.org, anges@tsideldel.org,<sup>s.22</sup> nsetah@tsideldel.org, research-writer@tsideldel.org, percy@tsideldel.org  
Sent: December 17, 2019 2:53:47 PM PST

## **Delivered: Prosperity Amendment: Correspondence from the EAO**

---

From: postmaster@outlook.com s.22  
To: Jessica.Warner@gov.bc.ca,  
Sent: December 17, 2019 2:53:53 PM PST  
Attachments: Prosperity Amendment: Correspondence from the EAO

**Your message has been delivered to the following recipients:**

s.22

Subject: Prosperity Amendment: Correspondence from the EAO

## Prosperity Amendment: Correspondence from the EAO

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: chief@tsideldel.org  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca, manager@tsideldel.org, anges@tsideldel.org, <sup>s.22</sup> nsetah@tsideldel.org, research-writer@tsideldel.org, percy@tsideldel.org  
Sent: December 17, 2019 2:53:47 PM PST



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Otis Guichon Sr.  
Alexis Creek First Nation | T̓sideldel  
P.O. Box 66  
Cilkano Forks, B.C. V0L 1H0  
[chief@tsideldel.org](mailto:chief@tsideldel.org)

Dear Chief Otis Guichon Sr.:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the T̓silhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and T̓silhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and T̓silhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

...2

---

**Environmental  
Assessment  
Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

In order to provide the option for the Chief Executive Assessment Officer to consider a further extension to the Certificate, a regulation has been made under Section 77(2)(h) of the Act specifying that the provision of the Act that limits extensions to "one occasion only" (located in Section 31(4)(a) of the Act) does not apply to Prosperity. That is, this regulation enables the Chief Executive Assessment Officer under the Act to make a decision on whether to extend the duration of the Certificate as requested by the Parties, for a period of one year to January 14, 2021.

Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Tšideldel First Nation if the changes will have a potential effect on Tšideldel First Nation's asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

Yours truly,



Fern Stockman  
Project Assessment Director

Attachment (1)

...3



cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Jenny Philbrick, Executive Director, T̓silhqot'in National Government  
[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

J.P. Laplante, Oil and Gas Manager, T̓silhqot'in National Government Mining  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Luke Doxtator, Stewardship Manager, T̓silhqot'in National Government  
[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

Councillor Maryanne Boyd  
[manager@tsideldel.org](mailto:manager@tsideldel.org)

Councillor Case Anges  
[anges@tsideldel.org](mailto:anges@tsideldel.org)

Councillor Rocky Guichon  
s.22

Councillor Nicole Setah  
[nsetah@tsideldel.org](mailto:nsetah@tsideldel.org)

Councillor Talia Baptiste  
[research-writer@tsideldel.org](mailto:research-writer@tsideldel.org)

Councillor Percy Guichon  
[percy@tsideldel.org](mailto:percy@tsideldel.org)

## FW: Prosperity Amendment: Correspondence from the EAO

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
Sent: December 17, 2019 3:11:38 PM PST  
Attachments: 354185\_Prosperty\_Incoming.pdf, Relayed: Prosperity Amendment: Correspondence from the EAO, Relayed: Prosperity Amendment: Correspondence from the EAO, image001.png, 354354\_Toosey\_Final.pdf

---

**From:** Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>

**Sent:** December 17, 2019 2:54 PM

**To:** chieflaceese@gmail.com

**Cc:** Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>; Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>; jphilbrick@tsilhqotin.ca; jlaplante@tsilhqotin.ca; luke@tsilhqotin.ca; nonitaj@tsilhqotin.ca

**Subject:** Prosperity Amendment: Correspondence from the EAO

Good afternoon Chief Laceese,

Please find attached correspondence from the Environmental Assessment Office, sent on behalf of Fern Stockman, Project Assessment Director.

Warm regards,

**JESSICA WARNER**

Administrative Assistant | Mining Sector

Environmental Assessment Office

Government of British Columbia

OFFICE: 778 974-3440



***The EAO respectfully acknowledges that it carries out its work on the traditional territories of Indigenous nations throughout British Columbia.***

*This e-mail is confidential and is intended only for the person(s) to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you received this e-mail in error, please destroy this e-mail and contact me directly.*

December 12, 2019

The Honourable George Heyman  
Minister of Environment

Kevin Jardine  
Associate Deputy Minister  
Ministry of Environment

Dear Sirs/Mesdames:

**Re: Joint Request of the T̓silhqot'in Nation (the "T̓silhqot'in") and Taseko Mines Limited ("Taseko")**

---

This letter is written jointly on behalf of the T̓silhqot'in and Taseko (collectively, the "Parties").

Taseko holds certain mineral tenures (collectively, the "Tenures") within a portion of the T̓silhqot'in traditional territory over which the T̓silhqot'in hold certain established Aboriginal rights. Taseko wishes to develop a mine project within its Tenures, the design of which has been known as the Prosperity or New Prosperity project from time to time (the "Project"). The T̓silhqot'in Nation opposes the Project.

Taseko currently holds, among other permits and authorizations, Environmental Assessment Certificate #M09-02 (the "Certificate") in relation to the Project. The Certificate is set to expire January 14, 2020.

The Parties have agreed to effect a standstill of outstanding litigation and other activities in relation to the Project in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between them relating to the Project, acknowledging Taseko's commercial interests and T̓silhqot'in opposition to the Project. To that end, the Parties hereby jointly request that the Province take the necessary steps to implement such regulatory or statutory decision-making processes as may be required to:

1. Extend the term of the Certificate for 12 months from the current expiry date of the Certificate, without penalty to Taseko; and
2. Hold in abeyance Taseko's application to amend the Certificate, which application currently remains under consideration by the Province, until further notice from Taseko and, in any event, until December 5, 2020 at the earliest.

To the extent possible, the Parties request that a decision regarding the request for the extension set out in paragraph 1 above be made and communicated to the Parties within 60 days of the date of this letter.

The Parties further request that, to the extent possible, any extension to the Certificate granted in response to the request set out in paragraph 1 above should be effected by the Province in a manner that preserves any existing rights to an extension (either by way of application or as of right) of the Certificate as held by Taseko as at the date of this joint request and the joint requests made herein are expressly without prejudice to any such existing extension rights held by Taseko.

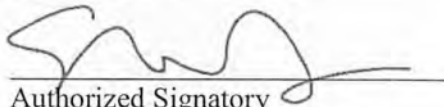
For clarity, the request to extend the Certificate is without prejudice to the position of the T̓silhqot̓'in (with which Taseko disagrees) that, absent the enactment of a further legislative or regulatory instrument, no further extensions of the Certificate are available to Taseko under s. 18 of the *Environmental Assessment Act* (2002) or the comparable provisions of the *Environmental Assessment Act* (2018) (upon coming into force).

Please do not hesitate to contact us should you have any questions regarding this request.

Yours truly,

**TASEKO MINES LIMITED**

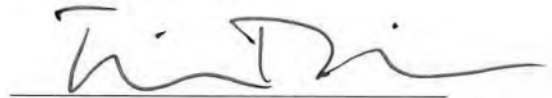
Per:



Authorized Signatory  
Stuart McDonald – President –  
Taseko Mines Limited

**T̓SILHQOT̓'IN NATION**

Per:



Authorized Signatory  
Tim Dickson  
JFK Law Corporation  
Counsel for the T̓silhqot̓'in Nation

## **Relayed: Prosperity Amendment: Correspondence from the EAO**

---

From: Microsoft Outlook  
s.16

To: Jessica.Warner@gov.bc.ca, chieflaceese@gmail.com

Sent: December 17, 2019 2:53:59 PM PST

Attachments: Prosperity Amendment: Correspondence from the EAO

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[chieflaceese@gmail.com](mailto:chieflaceese@gmail.com)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: chieflaceese@gmail.com  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca, nonitaj@tsilhqotin.ca  
Sent: December 17, 2019 2:53:40 PM PST

## **Relayed: Prosperity Amendment: Correspondence from the EAO**

---

From: Microsoft Outlook  
s.16

To: Jessica.Warner@gov.bc.ca, jphilbrick@tsilhqotin.ca, luke@tsilhqotin.ca,  
jlaplante@tsilhqotin.ca

Sent: December 17, 2019 2:54:00 PM PST

Attachments: Prosperity Amendment: Correspondence from the EAO

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

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From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: chieflaceese@gmail.com  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca, nonitaj@tsilhqotin.ca  
Sent: December 17, 2019 2:53:40 PM PST





File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Francis Laceese  
Toosey First Nation  
P.O. Box 80  
Riske Creek, B.C. V0L 1T0  
[chieflaceese@gmail.com](mailto:chieflaceese@gmail.com)

Dear Chief Francis Laceese:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

...2

---

**Environmental  
Assessment  
Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

In order to provide the option for the Chief Executive Assessment Officer to consider a further extension to the Certificate, a regulation has been made under Section 77(2)(h) of the Act specifying that the provision of the Act that limits extensions to "one occasion only" (located in Section 31(4)(a) of the Act) does not apply to Prosperity. That is, this regulation enables the Chief Executive Assessment Officer under the Act to make a decision on whether to extend the duration of the Certificate as requested by the Parties, for a period of one year to January 14, 2021.

Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Toosey First Nation if the changes will have a potential effect on Toosey First Nation's asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

Yours truly,

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

Fern Stockman  
Project Assessment Director

Attachment (1)

...3

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Jenny Philbrick, Executive Director, T̓silhqot'in National Government  
[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

J.P. Laplante, Oil and Gas Manager, T̓silhqot'in National Government Mining  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Luke Doxtator, Stewardship Manager, T̓silhqot'in National Government  
[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

Nonita Johnny, Toosey First Nation  
[nonitaj@tsilhqotin.ca](mailto:nonitaj@tsilhqotin.ca)

## FW: Prosperity Amendment: Correspondence from the EAO

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
Sent: December 17, 2019 3:28:20 PM PST  
Attachments: 354185\_Prosperty\_Incoming.pdf, image001.png, 354354\_Williams Lake\_Final.pdf

---

**From:** Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
**Sent:** December 17, 2019 2:54 PM  
**To:** willie.sellars@williamslakeband.ca  
**Cc:** Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>; Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>; Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>; rhonda.leeche@williamslakeband.ca  
**Subject:** Prosperity Amendment: Correspondence from the EAO

Good afternoon Chief Sellars,

Please find attached correspondence from the Environmental Assessment Office, sent on behalf of Fern Stockman, Project Assessment Director.

Warm regards,

**JESSICA WARNER**

Administrative Assistant | Mining Sector  
Environmental Assessment Office  
Government of British Columbia  
OFFICE: 778 974-3440



***The EAO respectfully acknowledges that it carries out its work on the traditional territories of Indigenous nations throughout British Columbia.***

*This e-mail is confidential and is intended only for the person(s) to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you received this e-mail in error, please destroy this e-mail and contact me directly.*

December 12, 2019

The Honourable George Heyman  
Minister of Environment

Kevin Jardine  
Associate Deputy Minister  
Ministry of Environment

Dear Sirs/Mesdames:

**Re: Joint Request of the T̓silhqot'in Nation (the "T̓silhqot'in") and Taseko Mines Limited ("Taseko")**

---

This letter is written jointly on behalf of the T̓silhqot'in and Taseko (collectively, the "Parties").

Taseko holds certain mineral tenures (collectively, the "Tenures") within a portion of the T̓silhqot'in traditional territory over which the T̓silhqot'in hold certain established Aboriginal rights. Taseko wishes to develop a mine project within its Tenures, the design of which has been known as the Prosperity or New Prosperity project from time to time (the "Project"). The T̓silhqot'in Nation opposes the Project.

Taseko currently holds, among other permits and authorizations, Environmental Assessment Certificate #M09-02 (the "Certificate") in relation to the Project. The Certificate is set to expire January 14, 2020.

The Parties have agreed to effect a standstill of outstanding litigation and other activities in relation to the Project in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between them relating to the Project, acknowledging Taseko's commercial interests and T̓silhqot'in opposition to the Project. To that end, the Parties hereby jointly request that the Province take the necessary steps to implement such regulatory or statutory decision-making processes as may be required to:

1. Extend the term of the Certificate for 12 months from the current expiry date of the Certificate, without penalty to Taseko; and
2. Hold in abeyance Taseko's application to amend the Certificate, which application currently remains under consideration by the Province, until further notice from Taseko and, in any event, until December 5, 2020 at the earliest.

To the extent possible, the Parties request that a decision regarding the request for the extension set out in paragraph 1 above be made and communicated to the Parties within 60 days of the date of this letter.

The Parties further request that, to the extent possible, any extension to the Certificate granted in response to the request set out in paragraph 1 above should be effected by the Province in a manner that preserves any existing rights to an extension (either by way of application or as of right) of the Certificate as held by Taseko as at the date of this joint request and the joint requests made herein are expressly without prejudice to any such existing extension rights held by Taseko.

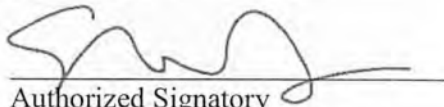
For clarity, the request to extend the Certificate is without prejudice to the position of the T̓silhqot̓'in (with which Taseko disagrees) that, absent the enactment of a further legislative or regulatory instrument, no further extensions of the Certificate are available to Taseko under s. 18 of the *Environmental Assessment Act* (2002) or the comparable provisions of the *Environmental Assessment Act* (2018) (upon coming into force).

Please do not hesitate to contact us should you have any questions regarding this request.

Yours truly,

**TASEKO MINES LIMITED**

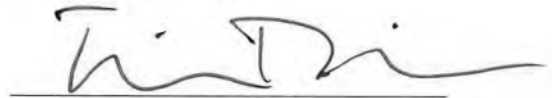
Per:



Authorized Signatory  
Stuart McDonald – President –  
Taseko Mines Limited

**T̓SILHQOT̓'IN NATION**

Per:



Authorized Signatory  
Tim Dickson  
JFK Law Corporation  
Counsel for the T̓silhqot̓'in Nation



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Willie Sellars  
Williams Lake Indian Band  
2672 Indian Drive  
Williams Lake, B.C. V2G 5K9  
[willie.sellars@williamslakeband.ca](mailto:willie.sellars@williamslakeband.ca)

Dear Chief Willie Sellars:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

...2

---

**Environmental  
Assessment  
Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

In order to provide the option for the Chief Executive Assessment Officer to consider a further extension to the Certificate, a regulation has been made under Section 77(2)(h) of the Act specifying that the provision of the Act that limits extensions to “one occasion only” (located in Section 31(4)(a) of the Act) does not apply to Prosperity. That is, this regulation enables the Chief Executive Assessment Officer under the Act to make a decision on whether to extend the duration of the Certificate as requested by the Parties, for a period of one year to January 14, 2021.

Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Williams Lake Indian Band if the changes will have a potential effect on Williams Lake Indian Band’s asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

The T̓silhqot’in Nation has indicated that it would welcome the opportunity to discuss this request with you directly and has identified Jay Nelson, at (778) 678-4699 or [jay@jaynelsonlaw.com](mailto:jay@jaynelsonlaw.com) as the point of contact.



Yours truly,

A handwritten signature in black ink, appearing to read 'Fern Stockman', with a long horizontal flourish extending to the right.

Fern Stockman  
Project Assessment Director

Attachment (1)

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Rhonda Leech, Senior Lands & Resource Manager  
Williams Lake Indian Band  
[Rhonda.Leech@williamslakeband.ca](mailto:Rhonda.Leech@williamslakeband.ca)

## FW: Prosperity Amendment: Correspondence from the EAO

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
Sent: December 17, 2019 3:10:37 PM PST  
Attachments: 354185\_Prosperty\_Incoming.pdf, Relayed: Prosperity Amendment: Correspondence from the EAO, Delivered: Prosperity Amendment: Correspondence from the EAO, Delivered: Prosperity Amendment: Correspondence from the EAO, Relayed: Prosperity Amendment: Correspondence from the EAO, image001.png, 354354\_Yunesitin\_Final.pdf

---

**From:** Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>

**Sent:** December 17, 2019 2:54 PM

**To:** russmyers71@gmail.com

**Cc:** Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>; Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>;

Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>; jphilbrick@tsilhqotin.ca; jlaplante@tsilhqotin.ca;

luke@tsilhqotin.ca; jsetah@hotmail.com; bandmanager@yunesitin.ca

**Subject:** Prosperity Amendment: Correspondence from the EAO

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Warm regards,

**JESSICA WARNER**

Administrative Assistant | Mining Sector

Environmental Assessment Office

Government of British Columbia

OFFICE: 778 974-3440



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The Honourable George Heyman  
Minister of Environment

Kevin Jardine  
Associate Deputy Minister  
Ministry of Environment

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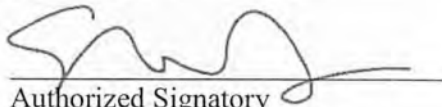
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**TASEKO MINES LIMITED**

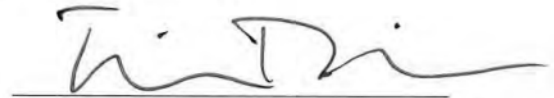
Per:



Authorized Signatory  
Stuart McDonald – President –  
Taseko Mines Limited

**T̓SILHQOT̓'IN NATION**

Per:



Authorized Signatory  
Tim Dickson  
JFK Law Corporation  
Counsel for the T̓silhqot̓'in Nation

## **Relayed: Prosperity Amendment: Correspondence from the EAO**

---

From: Microsoft Outlook  
s.16

To: Jessica.Warner@gov.bc.ca, russmyers71@gmail.com

Sent: December 17, 2019 2:54:29 PM PST

Attachments: Prosperity Amendment: Correspondence from the EAO

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[russmyers71@gmail.com](mailto:russmyers71@gmail.com)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: russmyers71@gmail.com  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca, jsetah@hotmail.com, bandmanager@yunesitin.ca  
Sent: December 17, 2019 2:54:22 PM PST

## **Delivered: Prosperity Amendment: Correspondence from the EAO**

---

From: postmaster@yunesitin.ca  
To: Jessica.Warner@gov.bc.ca, bandmanager@yunesitin.ca  
Sent: December 17, 2019 2:54:34 PM PST  
Attachments: Prosperity Amendment: Correspondence from the EAO

### **Your message has been delivered to the following recipients:**

[bandmanager@yunesitin.ca](mailto:bandmanager@yunesitin.ca)

Subject: Prosperity Amendment: Correspondence from the EAO

## Prosperity Amendment: Correspondence from the EAO

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: russmyers71@gmail.com  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca, jsetah@hotmail.com, bandmanager@yunesitin.ca  
Sent: December 17, 2019 2:54:22 PM PST



## **Delivered: Prosperity Amendment: Correspondence from the EAO**

---

From: postmaster@outlook.com  
To: Jessica.Warner@gov.bc.ca, jsetah@hotmail.com  
Sent: December 17, 2019 2:55:02 PM PST  
Attachments: Prosperity Amendment: Correspondence from the EAO

**Your message has been delivered to the following recipients:**

[jsetah@hotmail.com](mailto:jsetah@hotmail.com)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: russmyers71@gmail.com  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca, jsetah@hotmail.com, bandmanager@yunesitin.ca  
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jlaplante@tsilhqotin.ca

Sent: December 17, 2019 2:54:29 PM PST

Attachments: Prosperity Amendment: Correspondence from the EAO

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[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

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Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca, jsetah@hotmail.com, bandmanager@yunesitin.ca  
Sent: December 17, 2019 2:54:22 PM PST



File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Russel Myers Ross  
Yunesit'in Government  
P.O. Box 158  
Hanceville, B.C. V0L 1K0  
[russmyers71@gmail.com](mailto:russmyers71@gmail.com)

Dear Chief Russel Myers Ross:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

On December 12, 2019, the EAO received the attached joint letter from Taseko and Tsilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tsilhqot'in opposition to the project.

In the joint letter, the Parties have requested that the EAO:

- Extend the term of Environmental Assessment Certificate #M09-02 (Certificate) for 12 months from the current expiry date of the Certificate; and
- Hold in abeyance Taseko's application to amend its Certificate, until December 5, 2020 at the earliest.

Given this unique circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO has agreed to consider this request. This is consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building

...2

---

**Environmental  
Assessment  
Office**

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

and consensus-seeking processes rather than adversarial processes or reliance on the courts to settle disagreements.

With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

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Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Yunesit'in Government if the changes will have a potential effect on Yunesit'in Government's asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

Yours truly,

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

Fern Stockman  
Project Assessment Director

Attachment (1)

...3

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Jenny Philbrick, Executive Director, T̓silhqot'in National Government  
[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

J.P. Laplante, Oil and Gas Manager, T̓silhqot'in National Government Mining  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Luke Doxtator, Stewardship Manager, T̓silhqot'in National Government  
[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

Jessica Setah, Referral Worker  
Yunesit'in Government  
[jsetah@hotmail.com](mailto:jsetah@hotmail.com)

Dwayne Emerson, Referral Submission Band Manager  
Yunesit'in Government  
[bandmanager@yunesitin.ca](mailto:bandmanager@yunesitin.ca)

## FW: Prosperity Amendment: Correspondence from the EAO

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From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
Sent: December 17, 2019 2:59:21 PM PST  
Attachments: 354354\_Xeni Gwet'in\_Final.pdf, Relayed: Prosperity Amendment: Correspondence from the EAO, Relayed: Prosperity Amendment: Correspondence from the EAO, image001.png, 354185\_Prosperty\_Incoming.pdf

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**Sent:** December 17, 2019 2:54 PM

**To:** jimmyj@gmail.com

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**Subject:** Prosperity Amendment: Correspondence from the EAO

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**JESSICA WARNER**

Administrative Assistant | Mining Sector

Environmental Assessment Office

Government of British Columbia

OFFICE: 778 974-3440



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File: 30200-25/PROSPERITY19-04-01

Reference: 354354

December 17, 2019

**SENT VIA EMAIL**

Chief Jimmy Lulua  
Xeni Gwet'in First Nations Government  
General Delivery  
Nemiah Valley, B.C. V0L 1X0  
[jimmyj@gmail.com](mailto:jimmyj@gmail.com)

Dear Chief Jimmy Lulua:

I am writing regarding a request that the Environmental Assessment Office (EAO) has received from Taseko Mines Limited (Taseko) and the Tsilhqot'in Nation regarding the Prosperity-Gold Copper Project (Prosperity).

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Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
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With respect to the request from Taseko to hold the review of the proposed amendment in abeyance, the EAO will stop all work on the amendment immediately, and resume work if provided with notice from Taseko after December 5, 2020 at the earliest.

With respect to the request to extend the Certificate, the *Environmental Assessment Act, 2018* (Act) does not allow for more than one extension of the deadline in an Environmental Assessment Certificate, and the Certificate for Prosperity has already been extended once. Under the current deadline in the Certificate, this Certificate expires on January 14, 2020, unless substantially started.

In order to provide the option for the Chief Executive Assessment Officer to consider a further extension to the Certificate, a regulation has been made under Section 77(2)(h) of the Act specifying that the provision of the Act that limits extensions to "one occasion only" (located in Section 31(4)(a) of the Act) does not apply to Prosperity. That is, this regulation enables the Chief Executive Assessment Officer under the Act to make a decision on whether to extend the duration of the Certificate as requested by the Parties, for a period of one year to January 14, 2021.

Should the decision be made to grant the requested extension, any project or process changes in the period following the one year standstill period, related to the Certificate or the proposed amendment, would involve further consultation with Xeni Gwet'in First Nations Government if the changes will have a potential effect on Xeni Gwet'in First Nations Government's asserted or established Aboriginal rights, including title.

At this time, I am inviting your feedback on the proposed one-year extension of the duration of the Certificate.

As noted, unless determined to be substantially started, the Certificate will expire on January 14, 2020. A decision on whether to extend the Certificate is therefore needed before the Certificate expiry date. Therefore, I am requesting your comments by January 10, 2020 at the latest. Thank you in advance for your urgent attention to this matter.

Yours truly,

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

Fern Stockman  
Project Assessment Director

Attachment (1)

...3

cc: Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)

Jessica Harris, Project Assessment Officer  
Environmental Assessment Office  
[Jessica.Harris@gov.bc.ca](mailto:Jessica.Harris@gov.bc.ca)

Jenny Philbrick, Executive Director, T̓silhqot'in National Government  
[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

J.P. Laplante, Oil and Gas Manager, T̓silhqot'in National Government Mining  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Luke Doxtator, Stewardship Manager, T̓silhqot'in National Government  
[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

## **Relayed: Prosperity Amendment: Correspondence from the EAO**

---

From: Microsoft Outlook  
s.16

To: Jessica.Warner@gov.bc.ca, jphilbrick@tsilhqotin.ca, luke@tsilhqotin.ca,  
jlaplante@tsilhqotin.ca

Sent: December 17, 2019 2:54:24 PM PST

Attachments: Prosperity Amendment: Correspondence from the EAO

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[jphilbrick@tsilhqotin.ca](mailto:jphilbrick@tsilhqotin.ca)

[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

[luke@tsilhqotin.ca](mailto:luke@tsilhqotin.ca)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: jimmyj@gmail.com  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca  
Sent: December 17, 2019 2:54:18 PM PST

## **Relayed: Prosperity Amendment: Correspondence from the EAO**

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From: Microsoft Outlook  
s.16

To: Jessica.Warner@gov.bc.ca, jimmyj@gmail.com

Sent: December 17, 2019 2:54:23 PM PST

Attachments: Prosperity Amendment: Correspondence from the EAO

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[jimmyj@gmail.com](mailto:jimmyj@gmail.com)

Subject: Prosperity Amendment: Correspondence from the EAO

## **Prosperity Amendment: Correspondence from the EAO**

---

From: Warner, Jessica EAO:EX <Jessica.Warner@gov.bc.ca>  
To: jimmyj@gmail.com  
Cc: Stockman, Fern P EAO:EX <Fern.Stockman@gov.bc.ca>, Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>, Harris, Jessica EAO:EX <Jessica.Harris@gov.bc.ca>, jphilbrick@tsilhqotin.ca, jlaplante@tsilhqotin.ca, luke@tsilhqotin.ca  
Sent: December 17, 2019 2:54:18 PM PST

December 12, 2019

The Honourable George Heyman  
Minister of Environment

Kevin Jardine  
Associate Deputy Minister  
Ministry of Environment

Dear Sirs/Mesdames:

**Re: Joint Request of the T̓silhqot'in Nation (the "T̓silhqot'in") and Taseko Mines Limited ("Taseko")**

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This letter is written jointly on behalf of the T̓silhqot'in and Taseko (collectively, the "Parties").

Taseko holds certain mineral tenures (collectively, the "Tenures") within a portion of the T̓silhqot'in traditional territory over which the T̓silhqot'in hold certain established Aboriginal rights. Taseko wishes to develop a mine project within its Tenures, the design of which has been known as the Prosperity or New Prosperity project from time to time (the "Project"). The T̓silhqot'in Nation opposes the Project.

Taseko currently holds, among other permits and authorizations, Environmental Assessment Certificate #M09-02 (the "Certificate") in relation to the Project. The Certificate is set to expire January 14, 2020.

The Parties have agreed to effect a standstill of outstanding litigation and other activities in relation to the Project in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between them relating to the Project, acknowledging Taseko's commercial interests and T̓silhqot'in opposition to the Project. To that end, the Parties hereby jointly request that the Province take the necessary steps to implement such regulatory or statutory decision-making processes as may be required to:

1. Extend the term of the Certificate for 12 months from the current expiry date of the Certificate, without penalty to Taseko; and
2. Hold in abeyance Taseko's application to amend the Certificate, which application currently remains under consideration by the Province, until further notice from Taseko and, in any event, until December 5, 2020 at the earliest.

To the extent possible, the Parties request that a decision regarding the request for the extension set out in paragraph 1 above be made and communicated to the Parties within 60 days of the date of this letter.



The Parties further request that, to the extent possible, any extension to the Certificate granted in response to the request set out in paragraph 1 above should be effected by the Province in a manner that preserves any existing rights to an extension (either by way of application or as of right) of the Certificate as held by Taseko as at the date of this joint request and the joint requests made herein are expressly without prejudice to any such existing extension rights held by Taseko.

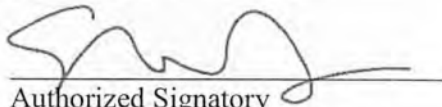
For clarity, the request to extend the Certificate is without prejudice to the position of the T̓silhqot'in (with which Taseko disagrees) that, absent the enactment of a further legislative or regulatory instrument, no further extensions of the Certificate are available to Taseko under s. 18 of the *Environmental Assessment Act* (2002) or the comparable provisions of the *Environmental Assessment Act* (2018) (upon coming into force).

Please do not hesitate to contact us should you have any questions regarding this request.

Yours truly,

**TASEKO MINES LIMITED**

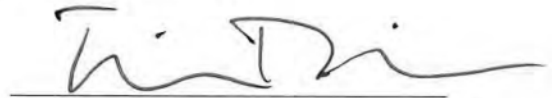
Per:



Authorized Signatory  
Stuart McDonald – President –  
Taseko Mines Limited

**T̓SILHQOT'IN NATION**

Per:



Authorized Signatory  
Tim Dickson  
JFK Law Corporation  
Counsel for the T̓silhqot'in Nation

## **FW: Letter from Chief Alphonse and Chief William re: TML Request for Extension of the deadline for Certificate M09-02 (Prosperity Mine)**

---

**From:** Minister, ENV ENV:EX <ENV.Minister@gov.bc.ca>  
**To:** Correspondence Unit ENV:EX <Correspondence.Unit@gov.bc.ca>  
**Sent:** September 4, 2014 9:31:17 AM PDT  
**Attachments:** 2014 08 25 Letter from C Alphonse and C William to EAO ED re TML Certificate Extension.pdf, 2014 08 22 TML Notice of Motion - Attachment to EAO Letter.pdf, 2014 07 29 Federal Court Order Vacating Hearing Dates.pdf, 2014 08 25 JPL - SM re TML Application for Prosperity Certificate Extension.pdf

---

**From:** J.P. Laplante [<mailto:jlaplante@tsilhqotin.ca>]

**Sent:** Monday, August 25, 2014 11:27 AM

**To:** Minister, ENV ENV:EX

**Cc:** Polak.MLA, Mary LASS:EX; Crystal Verhaeghe; Jay Nelson ([jay@jaynelsonlaw.com](mailto:jay@jaynelsonlaw.com))

**Subject:** FW: Letter from Chief Alphonse and Chief William re: TML Request for Extension of the deadline for Certificate M09-02 (Prosperity Mine)

**Importance:** High

Dear Minister Polak,

Please find attached a letter from Chief Joe Alphonse and Chief Roger William to Doug Caul of the BC EAO on which you were copied.

Regards,

J.P. Laplante  
Mining, Oil and Gas Manager  
Tsilhqot'in National Government  
253 4<sup>th</sup> Ave North, Williams Lake BC V2G 4T4  
Tel: 250-392-3918  
Fax: 250-398-5798  
Email: [jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)  
Web: [www.teztanbiny.ca](http://www.teztanbiny.ca)  
Web: [www.tsilhqotin.ca](http://www.tsilhqotin.ca)

---

**From:** J.P. Laplante

**Sent:** August-25-14 11:17 AM

**To:** Doug Caul ([Doug.Caul@gov.bc.ca](mailto:Doug.Caul@gov.bc.ca))

**Cc:** Jay Nelson ([jay@jaynelsonlaw.com](mailto:jay@jaynelsonlaw.com)); Crystal Verhaeghe ([tng-director@tsilhqotin.ca](mailto:tng-director@tsilhqotin.ca)); 'Shelley.Murphy@gov.bc.ca'

**Subject:** Letter from Chief Alphonse and Chief William re: TML Request for Extension of the deadline for Certificate M09-02 (Prosperity Mine)

**Importance:** High

Dear Mr. Caul,

Please find attached a letter from Chief Joe Alphonse, Tl'etinqox-t'in and TNG Tribal Chairman, and Chief Roger William, Xeni Gwet'in and TNG Vice-Tribal Chair regarding the request from TML to extend the deadline for Certificate M09-02 (Prosperity Mine).

Also attached are a technical submission and attachments from TNG to the EAO (Shelley Murphy).

Regards,

J.P. Laplante  
Mining, Oil and Gas Manager  
Tsilhqot'in National Government  
253 4<sup>th</sup> Ave North, Williams Lake BC V2G 4T4  
Tel: 250-392-3918  
Fax: 250-398-5798  
Email: [jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)  
Web: [www.teztanbiny.ca](http://www.teztanbiny.ca)  
Web: [www.tsilhqotin.ca](http://www.tsilhqotin.ca)

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Withheld pursuant to/removed as

s.16



## TSILHQOT'IN NATIONAL GOVERNMENT

253 – 4<sup>th</sup> Avenue North • Williams Lake, BC V2G 4T4 • Phone (250) 392-3918 • Fax (250) 398-5798

August 25, 2014

Environmental Assessment Office  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

**Attention: Shelley Murphy**  
**Project Assessment Director**

Dear Ms. Murphy:

***Re: Application to Extend Environmental Assessment Certificate M09-02***

I write in response to your letter to Chief Alphonse, dated July 15, 2014, inviting comments on the application by Taseko Mines Limited (the “**Proponent**”) to extend its Environmental Assessment Certificate for the Prosperity Mine proposal (the “**Certificate**”).

For the reasons detailed below, this application to extend the Certificate must be denied.

The Certificate was granted for a project that was rejected by the Federal Government (the Prosperity Mine). For this reason, the project can never be built. In rejecting the Prosperity Mine, the Federal Government had the benefit of vast amounts of additional, critical information on the technical issues and impacts on First Nations, not available for the original provincial assessment. With the benefit of this far more complete record, the Federal Government identified a host of additional significant adverse impacts of the Project, beyond those identified in the original EAO assessment.

The Proponent now seeks to amend the Certificate to reflect its “New” Prosperity mine design, but the Federal Government rejected New Prosperity as well, after another extensive environmental assessment.

Far from addressing the concerns raised by the Prosperity Mine proposal, New Prosperity raises a host of serious *new* concerns (*e.g.* unproven water treatment and unprecedented proposals to recirculate lake flows) and significant adverse impacts that were not considered, in any way, in the original provincial assessment of Prosperity (most notably, the long-term contamination of Teztan Biny, Wasp Lake and potentially Onion Lakes).

This is far from a typical Certificate extension application. These extraordinary circumstances make it clear that the application must be denied.

The following submissions address each of the factors identified in the Environmental Assessment Office's ("EAO") policy on applications to extend Certificates.

***(a) Have significant adverse environmental effects been identified since the certificate was issued that were not considered during the original assessment (including potential cumulative impacts of increased industrial activity)?***

Yes. Two independent federal panels have identified a host of significant and immitigable environmental and cultural impacts that were not considered, fully or at all, during the original provincial assessment of the Prosperity Mine.<sup>1</sup>

In the original Assessment Report for the Prosperity Mine, the BC Environmental Assessment Office ("EAO") concluded that "the proposed Project, after mitigation, would not result in significant adverse effects, with the exception of the loss of Fish Lake and Little Fish Lake".<sup>2</sup>

The EAO reached these conclusions without the benefit of a substantial amount of critical information generated by the subsequent Panel hearings, as noted by the Prosperity Panel:

... the Province was not able to consider the final comments from federal departments nor was it able to take advantage of information received during the public hearing from First Nations on the current use of lands and resources for traditional purposes and effects on cultural heritage. The Panel notes that the public hearing was instrumental in gathering information from First Nations on these matters.<sup>3</sup>

Most notably, the EAO concluded that the impacts of the Prosperity Mine on Tsilhqot'in culture, cultural heritage and Aboriginal rights would be insignificant.<sup>4</sup> In light of subsequent information, this conclusion is clearly wrong and cannot stand.

With the benefit of a more complete record, both independent panels confirmed the "unique and special significance"<sup>5</sup> of Teztan Biny and Nabas to the Tsilhqot'in people.

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<sup>1</sup> See: *Report of the Federal Review Panel established by the Minister Of The Environment[:] Taseko Mines Limited's Prosperity Gold-Copper Mine Project* (July 2, 2010) ["[Prosperity Panel Report](#)"]; *Report of the Federal Review Panel - New Prosperity Gold-Copper Mine Project* (Oct. 31, 2013) (the "[New Prosperity Panel Report](#)").

<sup>2</sup> EAO, *Prosperity Gold-Copper Project Assessment Report* (Dec. 17, 2009), p. 143; *Recommendations of the Executive Director* (Dec. 17, 2009), p. 10.

<sup>3</sup> *Prosperity Panel Report*, p. ii; see also pp. 29-31.

<sup>4</sup> EAO, *Prosperity Gold-Copper Project Assessment Report* (Dec. 17, 2009), pp. 98, 122-28; *Recommendations of the Executive Director* (Dec. 17, 2009), pp. 15-17.

<sup>5</sup> *New Prosperity Panel Report*, p. x; *Prosperity Panel Report*, p. 203.

Both panels described severe, almost unfathomable cultural impacts for the Tsilhqot'in people should the project proceed, *e.g.*:

- "... the Project would result in significant adverse effects on the Tsilhqot'in current use of lands and resources for traditional purposes, and on cultural heritage. These effects cannot be mitigated";<sup>6</sup>
- "... the loss of this cultural heritage is substantial and would impair their ability to sustain their cultural identities and ways of life";<sup>7</sup>
- "... the Project would result in significant and immitigable adverse effects on incidental Aboriginal rights to instruct youth in these cultural activities in a highly valued and actively used cultural training ground. The Panel agrees that these effects could last for decades";<sup>8</sup>
- "[t]hese effects on the Tsilhqot'in would be irreversible, of high magnitude, and long-term, despite all of the mitigation measures and commitments made by Taseko because the heritage value to the Tsilhqot'in cannot be replaced";<sup>9</sup> and
- "... displacement of Tsilhqot'in from this sacred site, and the practical impediments to conducting cultural and spiritual ceremonies at and around Fish Lake ... would amount to a severe infringement of Tsilhqot'in Aboriginal rights".<sup>10</sup>

The New Prosperity Panel identified a number of additional significant adverse environmental effects of the Project, if approved, including:

- significant and permanent impacts on valuable wetland and riparian ecosystems;<sup>11</sup>
- significant adverse effects on water quality in Wasp Lake and potentially Onion Lakes;<sup>12</sup> and

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<sup>6</sup> New Prosperity Panel Report, p. 197 [emphasis added].

<sup>7</sup> New Prosperity Panel Report, p. 197 [emphasis added].

<sup>8</sup> New Prosperity Panel Report, p. 212 [emphasis added].

<sup>9</sup> New Prosperity Panel Report, p. 197 [emphasis added].

<sup>10</sup> New Prosperity Panel Report, p. 212 [emphasis added].

<sup>11</sup> New Prosperity Panel Report, p. 129.

<sup>12</sup> New Prosperity Panel Report, p. 88.

- significant adverse cumulative effects on the regional moose population (which new government studies show has declined precipitously in recent years)<sup>13</sup> unless necessary cumulative effects mitigation measures are effectively implemented.<sup>14</sup>

In its recent submission to the EAO, the Proponent argues that the significant impacts identified by the New Prosperity Panel are “less than the impacts of the original project which provincial ministers already approved”.<sup>15</sup>

This position is demonstrably false. In particular:

- As reviewed above, the New Prosperity Panel identified a host of significant adverse impacts beyond those set out by the EAO in its Assessment Report, including profound and immitigable impacts on Tsilhqot’in culture, heritage and Aboriginal rights, and the potential contamination of other water bodies such as Wasp Lake and Onion Lakes.
- The original proposal was to *drain* Teztan Biny for the Prosperity Mine. By contrast, the New Prosperity Panel concluded that the revised proposal to “preserve” the lake would result in the *contamination* of Teztan Biny, despite expensive water treatment. The Panel confirmed that it was “*unable to recommend any measures* that would mitigate the significant adverse effects of the Project on water quality in Fish Lake (Teztan Biny) should the Project proceed”.<sup>16</sup>
- In other words, the Province issued the Certificate for a proposal to *drain* Teztan Biny – the Province did not consider or contemplate the likelihood identified by the New Prosperity Panel of a long-term legacy of *contamination* of Teztan Biny, Wasp Lake and potentially Onion Lakes. The provincial Ministry of Energy and Mines highlighted these same concerns in its submissions to the New Prosperity Panel.<sup>17</sup>

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<sup>13</sup> In the past five years since the original certificate was issued, the Ministry of Environment has reported significant drops in moose populations in Tsilhqot’in territory: “[T]he Panel requested information from the Ministry of Forests, Lands and Natural Resources Operations and received reports that confirmed a substantial decline in regional moose populations – generally about 50% in recent years”: New Prosperity Panel Report, p. 146. The plummeting numbers are already impacting the proven Tsilhqot’in right to hunt.

<sup>14</sup> New Prosperity Panel Report, p. 146.

<sup>15</sup> Letter, J. McManus (TML) to D. Caul (EAO), July 30, 2014, p. 3.

<sup>16</sup> New Prosperity Panel Report, p. 87 [emphasis added]; see also p. x “[T]he proposed target water quality objectives for Fish Lake are not likely achievable and, even with expensive water treatment measures, the protection of Fish Lake water quality is unlikely to succeed in the long term”].

<sup>17</sup> Supplementary Review Comments submission to the Panel from the British Columbia Ministry of Energy and Mines (July 30, 2013); Response from the British Columbia Ministry of Energy and Mines to McMillan LLP, counsel for Taseko Mines Limited providing comments on the New Prosperity Project and its environmental effects (August 6, 2013); New Prosperity Panel Report, p. 83.



- Finally, in issuing the Certificate, the EAO and the Minister justified the significant impacts on fish and fish habitat in large part by the proposed creation of “Prosperity Lake” as compensation for the loss of fish habitat. By contrast, the New Prosperity application did not propose a replacement lake or, indeed, *any* measures to compensate for the permanent destruction of the fish and fish habitat at Teztan Biny identified by the New Prosperity Panel.<sup>18</sup> This means that a central justification for originally granting the Certificate is no longer tenable in light of subsequent developments.

In sum, since the Certificate was issued, two independent panel reviews have highlighted several additional significant (and immitigable) adverse environmental effects that were not considered or fully assessed in the provincial environmental assessment.

***(b) Have there been changes to the design of the Project ... that could impact the original effects analysis? These could result from (i) new scientific and technical information; (ii) physical changes to the airshed, watershed or landscape; (iii) previously unknown or undetected effects; and (iv) new information respecting First Nations interests.***

Yes. The New Prosperity Mine incorporates significant design changes from the rejected Prosperity Project. These design changes substantially impact the original effects analysis.

New Prosperity not only fails to address the substantial cultural and environmental effects identified with the Prosperity proposal, it raises a host of new, significant impacts, such as the contamination of Teztan Biny, Wasp Lake and potentially Onion Lakes (resulting in additional, unassessed impacts on wildlife in the region).

Further, as reviewed above, voluminous amounts of new scientific and technical information support the New Prosperity Panel’s findings of new significant environmental impacts. This includes new provincial studies that “confirmed a substantial decline in regional moose populations – generally about 50% in recent years”.<sup>19</sup> New information demonstrating significant impacts on First Nations’ interests also clearly demonstrates that the EAO’s original assessment of impacts on First Nations’ culture, cultural heritage and Aboriginal rights is incomplete and inaccurate.

***(c) Are there adverse social or economic effects if the Certificate is not extended?***

The Federal Government rejected both the Prosperity and New Prosperity proposals. The Project cannot be built as designed.

<sup>18</sup> New Prosperity Panel Report, p. 115 [“While the mitigation measures Taseko proposed in the compensation plan are well understood, they will not compensate for the adverse effects to fish that will result from the Project’s impacts on water quality and lake ecology from the recirculation of Fish Lake”].

<sup>19</sup> New Prosperity Panel Report, p. 146.

Any adverse social or economic effects of refusing to extend the Certificate depend entirely on the Proponent succeeding in overturning this rejection by the Federal Government through litigation. Even then, upon reconsideration, the Federal Government would have full discretion to reject the Project again.

As a result, the social or economic effects identified by the Proponent are entirely remote and speculative and should be accorded little weight in this assessment.

***(d) If material changes have developed or occurred, would the imposition of new or revised mitigation measures be justified?***

Yes. The existing mitigations and commitments for the Prosperity Project are wholly inadequate as they stand, even for the Prosperity Project (given the Federal Government's findings of significant and immitigable impacts). These mitigations and commitments are clearly insufficient to address the *additional* (and as found by the Federal Government, *fatal*) challenges raised by the New Prosperity proposal.

New Prosperity raises a number of material changes from the original EAO assessment, e.g.: the contamination of Teztan Biny, Wasp Lake and potentially Onion Lakes; significant impacts on Tsilhqot'in cultural practices, cultural heritage and Aboriginal rights; significant impacts on valuable wetland and riparian ecosystems; and potentially significant impacts on plummeting moose populations in the region.

In support of the extension application, the Proponent raises a number of commitments and proposed mitigations.<sup>20</sup> However, the New Prosperity Panel concluded that these measures would not eliminate the significant impacts of the Project on water quality or fish and fish habitat.

Given the conclusions of the New Prosperity Panel, it is clear that mitigation measures beyond those considered in the original EAO assessment would need to be considered by the Province. The original EAO assessment simply did not address the full range of profound concerns raised by New Prosperity.

At the same time, the New Prosperity Panel found that many of these impacts (including the contamination of Teztan Biny and Wasp Lake and the impacts on Tsilhqot'in culture, cultural heritage and Aboriginal rights) simply cannot be mitigated. While the original EAO review is clearly insufficient to address the full scope of impacts from New Prosperity, the overwhelming independent evidence is that these impacts simply cannot be mitigated.

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<sup>20</sup> Letter, J. McManus (TML) to D. Caul (EAO), July 30, 2014, pp. 4-5.

***(e) Are the nature and scale of possible new mitigation measures sufficient to warrant reconstituting the working group or seeking additional public comments?***

Yes. As noted, the New Prosperity design raises very serious issues that were not considered in the original EAO assessment, fully or at all.

The Ministry of Energy and Mines underscored these serious concerns in its submissions to the New Prosperity Panel, e.g.:

The British Columbia Ministry of Energy and Mines stated: 'Water treatment is a primary mitigation strategy for this project and it should be demonstrated to be feasible at the EA phase, especially since it is key to conclusions on project related effects'.<sup>21</sup>

...

The British Columbia Ministry of Energy and Mines stated the water treatment for the Project did not provide confirmation that the proposed target water quality objectives for Fish Lake (Teztan Biny) were likely to be either technically or financially achievable. The Ministry concluded in a memo to the Panel that it was unlikely that the Project could be developed as currently designed without adverse effects to the water quality of Fish Lake and its tributaries from tailings storage facility seepage, and stated that even with expensive and long term measures to mitigate tailings storage facility seepage, the protection of Fish Lake water quality might not be assured. In a follow up memo the Ministry modified this statement by saying that the protection of Fish Lake water quality was uncertain.<sup>22</sup>

As noted, the New Prosperity Panel identified numerous fatal flaws in the Proponent's approach to water treatment, seepage assessment, the proposed recirculation system and impacts for First Nations. It stated that the Proponent failed to demonstrate even "proof of concept".<sup>23</sup> It concluded that these problems simply could not be mitigated, by any available measures.<sup>24</sup>

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<sup>21</sup> New Prosperity Panel Report, p. 22 [underscore added].

<sup>22</sup> New Prosperity Panel Report, p. 83 [underscore added].

<sup>23</sup> New Prosperity Panel Report, p. 87.

<sup>24</sup> See, e.g., New Prosperity Panel Report, p. x ["[T]he proposed target water quality objectives for Fish Lake are not likely achievable and, even with expensive water treatment measures, the protection of Fish Lake water quality is unlikely to succeed in the long term"]; p. 87 ["[T]he proposed recirculation scheme, the adaptive management plan and the water treatment options are unlikely to work effectively in the long-term"]; p. 115 ["[T]he proposed water recirculation scheme is not likely to sustain a viable trout population in Fish Lake (Teztan Biny) in the long term ... This effect cannot be mitigated"].

Given these findings, it is absurd to suggest (as the Proponent does) that the Province could proceed based on the original EAO assessment and the Proponent's (highly questionable) assertions and commitments, without an intensive examination of these new – and, by the overwhelming weight of available evidence, *fatal* – issues by provincial technical staff.

The findings of the New Prosperity Panel, accepted by the Federal Government, substantiate the position of the Tsilhqot'in Nation in its submissions to the EAO with regards to the Certificate Amendment process – that the only way forward is for a new B.C. Environmental Assessment of the New Prosperity Project (in the unlikely event that the federal rejection of the project were reversed). Anything less would breach the Province's duty to meaningfully consult the Tsilhqot'in Nation. To issue a Certificate Extension in the face of these findings would likewise represent a serious breach of the Province's commitment to responsible resource development.

***(f) Has a substantial start of the project been delayed or prevented by reason of third party actions beyond the control of the proponent?***

The Federal Government has rejected both the Prosperity and New Prosperity proposals. This complete barrier to proceeding is attributable wholly to the fact that the Proponent is pursuing the wrong project in the wrong place. Independent panels have twice described the cultural and environmental impacts as immitigable. It is clear, from two federal environmental assessments, that the ore body cannot be developed without unacceptable, unavoidable impacts on the environment and First Nations.

The Proponent has challenged the New Prosperity Panel Report and the Federal Government rejection in two separate judicial reviews filed in Federal Court. Notably, while the Proponent publicly accuses the New Prosperity Panel and federal reviewers of errors that are “inexplicable”, “extraordinary” and “so outrageous as to be nearly unfathomable”,<sup>25</sup> the company seems to be in no hurry to have the matter resolved by the courts.

After months of pursuing this litigation by way of judicial review, the Proponent recently announced that it intends to change procedures entirely. The Proponent is now applying to convert both judicial reviews into a single action.<sup>26</sup> In other words, rather than using the standard and relatively expeditious procedure of judicial review to obtain judgment as soon as possible, the Proponent is actively taking steps to start the litigation over again, this time as a *full trial*, with all of the attendant delay. If successful, it could be up to two years before judgment in this litigation, and potentially longer.

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<sup>25</sup> Letter, J. McManus (TML) to Y. Leboeuf (CEAA), Nov. 15, 2013, pp. 7-8.

<sup>26</sup> See *Notice of Motion*, attached.

The Federal Court had already set down hearing dates for the first judicial review, starting October 29, 2014. The Federal Court has now cancelled those hearing dates as a direct result of the Proponent announcing it no longer intends to proceed by judicial review,<sup>27</sup> and is instead seeking a full trial.

In sum, while the Proponent has alleged errors (which we consider to be entirely without merit), it has not taken any of the available steps to *expedite* the hearing of its lawsuits; to the contrary, the company does not even want to proceed by way of judicial review, which is by far the *standard* procedure for reviewing decisions by tribunals and government officials. Instead, the Proponent is actively taking steps that could delay a decision by years through a full trial process. These delays are fully attributable to the Proponent.

***(g) How will this proposed extension impact permitting?***

The EAO has no plans to amend the Certificate, let alone issue permits for this project, immediately or in the foreseeable future.<sup>28</sup>

Unless the Proponent succeeds in its litigation, and in any reconsideration by the Federal Government, permits can never issue for this project. Accordingly, any impacts of denying the extension on permitting are speculative and remote at this time.

**Concluding Remarks**

The existing Certificate is based on a nearly five-year old assessment that is profoundly out of step with the present realities. The situation has changed dramatically.

The Proponent seeks an extension of a Certificate for a *rejected* project, in the hopes that it can amend the Certificate to reflect *another* rejected project, based on its *further* hope that it will overturn that rejection in court (with litigation that it is delaying rather than expediting).

Granting an extension in these circumstances is not appropriate or responsible. The request must be denied.

If the Proponent's remote speculation comes to pass some months or years from now, and it succeeds in its litigation, and *then* persuades the Federal Government to approve the project, the Proponent would be free to pursue a fresh Certificate from the Province for the project at that time, based on a proper environmental assessment that fully considers the final project design and all available information. In our submission, this is the only responsible path forward.

---

<sup>27</sup> Federal Court Order, July 29, 2014 (*attached*).

<sup>28</sup> Letter, S. Murphy (EAO) to J. McManus (TML), July 14, 2014.

Thank you for your consideration of these comments. Please do not hesitate to contact me if I can assist in any way.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.P. Laplante', with a stylized, cursive script.

---

**J.P. Laplante**  
TNG Mining, Oil & Gas Manager

*encl. Notice of Motion  
Federal Court Order, July 29, 2014*

*cc. TNG Chiefs  
Crystal Verhaeghe, Executive Director, TNG  
Doug Caul, ADM & Executive Director, BC EAO*

Page 390 of 478 to/à Page 424 of 478

Withheld pursuant to/removed as

s.3

## FW: Environmental Assessment Certificate for the Prosperity Gold-Copper Project

---

From: Lee, Bonnie ENV:EX <Bonnie.Lee@gov.bc.ca>, Lee, Bonnie ENV:EX  
s.15  
To: Kapac de Frias, Martina E ENV:EX <Martina.KapacdeFrias@gov.bc.ca>, Mitschke, Matt ENV:EX <Matt.Mitschke@gov.bc.ca>, Hansen, Brian MNGD:EX <Brian.Hansen@gov.bc.ca>  
Cc: Correspondence Unit ENV:EX <Correspondence.Unit@gov.bc.ca>, Sawatsky, Kim ENV:EX <Kim.Sawatsky@gov.bc.ca>, Rollheiser, Kate ENV:EX <Kate.Rollheiser@gov.bc.ca>, Jackson, Vickie ENV:EX <Vickie.Jackson@gov.bc.ca>, Quin, Melissa ENV:EX <Melissa.Quin@gov.bc.ca>  
Sent: June 11, 2014 10:16:08 AM PDT  
Attachments: image001.jpg, 06\_11\_14 Taseko - Provincial Environmental Assessment certificate extension and amendment.pdf

FYI, it looks like Taseko sent this to the Minister's MLA address instead of her ENV.Minister address.

Bonnie Lee | Senior Executive Assistant | Deputy Minister's Office | Ministry of Environment | Phone 250.387.5429

---

**From:** Christine Andrews [mailto:CAndrews@tasekomines.com]  
**Sent:** Wednesday, June 11, 2014 10:11 AM  
**To:** Caul, Doug D EAO:EX  
**Cc:** Bennett.MLA, Bill LASS:EX; Polak.MLA, Mary LASS:EX; Nikolejsin, Dave MEM:EX; Shoemaker, Wes ENV:EX; Lee, Bonnie ENV:EX; John W. McManus  
**Subject:** Environmental Assessment Certificate for the Prosperity Gold-Copper Project

Good morning Mr. Caul,

Please see the attached letter regarding the Environmental Assessment Certificate for the Prosperity Gold-Copper Project sent on behalf of John McManus.  
Originals and copies will be sent via mail.

Kind regards,

**Christine Andrews**  
Senior Administrative Assistant



Taseko Mines Limited | 1040 - West Georgia, Suite 1500 Vancouver, BC V6E 4H1  
D 778-373-4551 T +1-778-373-4533 F +1-778-373-4534  
E [CAndrews@tasekomines.com](mailto:CAndrews@tasekomines.com) Web [tasekomines.com](http://tasekomines.com)





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15th Floor, 1040 West Georgia St.  
Vancouver, BC V6E 4H1  
tasekomines.com

June 11, 2014

**DOUG CAUL**

Associate Deputy Minister and Executive Director  
Environmental Assessment Office  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Dear Mr. Caul:


**Re: Environmental Assessment Certificate for the Prosperity Gold-Copper Project**

Environmental Assessment Certificate M09-02 was issued to Taseko on January 14, 2010 for the Prosperity Gold-Copper Project. The certificate states in section 8 that Taseko must have substantially started the construction of the project within five years of the date of the certificate. Therefore, the certificate as it presently stands requires Taseko to have substantially started the construction of the project by January 14, 2015.

As you know, Taseko has sought an amendment to the certificate in order to revise the mine plan to preserve Fish Lake, and we have also made a related application to the Canadian Environmental Assessment Agency. However, given the recent federal decision to not approve the project (which is the subject of litigation), Taseko is not in a position to commence construction at this time. As such, we are hereby requesting a five-year extension of the deadline specified in the certificate, to January 14, 2020, as permitted by subsection 18(2) of the *Environmental Assessment Act*.

We note that the EAO Certificate Extension Policy provides that the "Executive Director must be satisfied that granting an extension would not result in any significant adverse...effects". We believe this statement of the policy must be in error, because the *Environmental Assessment Act* clearly allows ministers to approve projects that have significant adverse effects, and there is no way such a policy document could overrule the act or fetter the discretion of the Executive Director in his consideration of an extension application.

In any case, to the extent that project effects should be considered in an extension request at all, we note that the potential for effects resulting from a certificate extension in this particular case is nil, because the project will not be built as presently set out in the certificate. Rather, it will only be built in accordance with approvals granted under an amended certificate (which is presently underway and has itself been the subject of a very extensive process). As such, we submit there is no need to consider any changes, new effects, etc. in the context of this certificate extension request.



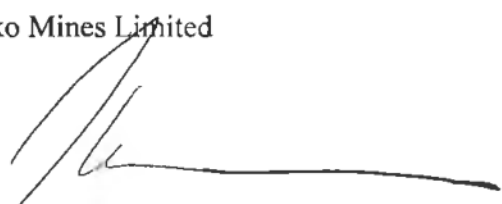
On the related matter of the certificate amendment application, we are also at this time asking that EAO complete its process and refer the amendment request for a decision by the minister, pursuant to subsection 19(3) of *Environmental Assessment Act*. While we know EAO originally delayed this decision to utilize the panel process to gather information (thus avoiding undue duplication of process), there has never been any suggestion that BC would not make its own independent decision respecting the amendment application once the panel and federal decision-making process was complete.

To the extent that the federal decision presents any impediment to the start of construction going forward, we are seeking to address that issue through the two judicial reviews (and/or potentially a further application, which the federal government has invited) and believe we have every right to obtain a timely provincial decision independent of those processes. More specifically, we intend in the near future to make applications and seek approvals from provincial permitting agencies, as we believe those permitting processes and resulting decisions (with terms and conditions) could assist any federal reconsideration that may occur. By contrast, to not make a timely provincial amendment decision and to delay our entry into the provincial permitting processes while the present federal litigation is pending, would, in our respectful view, be unfair and not in keeping with relevant administrative law principles. Further, our request to have the certificate extended and the amendment granted at this time is consistent with the EAO Certificate Extension Policy, which specifically notes that the impact of the extension on permitting is a factor that the Executive Director will consider.

We thank you in advance for your consideration.

Sincerely,

Taseko Mines Limited



John W. McManus, P. Eng.  
Chief Operating Officer

Cc: Honourable Bill Bennett, Minister of Energy and Mines  
Honourable Mary Polak, Minister of Environment  
Dave Nikolejsin, Deputy Minister, Ministry of Energy and Mines  
Wes Shoemaker, Deputy Minister, Ministry of Environment



Taseko Mines Limited  
15th Floor, 1040 West Georgia St.  
Vancouver, BC V6E 4H1  
tasekomines.com

June 11, 2014

**DOUG CAUL**

Associate Deputy Minister and Executive Director  
Environmental Assessment Office  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Dear Mr. Caul:


**Re: Environmental Assessment Certificate for the Prosperity Gold-Copper Project**

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We note that the EAO Certificate Extension Policy provides that the "Executive Director must be satisfied that granting an extension would not result in any significant adverse...effects". We believe this statement of the policy must be in error, because the *Environmental Assessment Act* clearly allows ministers to approve projects that have significant adverse effects, and there is no way such a policy document could overrule the act or fetter the discretion of the Executive Director in his consideration of an extension application.

In any case, to the extent that project effects should be considered in an extension request at all, we note that the potential for effects resulting from a certificate extension in this particular case is nil, because the project will not be built as presently set out in the certificate. Rather, it will only be built in accordance with approvals granted under an amended certificate (which is presently underway and has itself been the subject of a very extensive process). As such, we submit there is no need to consider any changes, new effects, etc. in the context of this certificate extension request.



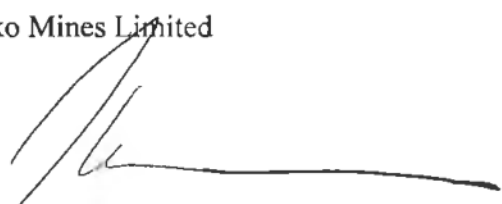
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To the extent that the federal decision presents any impediment to the start of construction going forward, we are seeking to address that issue through the two judicial reviews (and/or potentially a further application, which the federal government has invited) and believe we have every right to obtain a timely provincial decision independent of those processes. More specifically, we intend in the near future to make applications and seek approvals from provincial permitting agencies, as we believe those permitting processes and resulting decisions (with terms and conditions) could assist any federal reconsideration that may occur. By contrast, to not make a timely provincial amendment decision and to delay our entry into the provincial permitting processes while the present federal litigation is pending, would, in our respectful view, be unfair and not in keeping with relevant administrative law principles. Further, our request to have the certificate extended and the amendment granted at this time is consistent with the EAO Certificate Extension Policy, which specifically notes that the impact of the extension on permitting is a factor that the Executive Director will consider.

We thank you in advance for your consideration.

Sincerely,

Taseko Mines Limited



John W. McManus, P. Eng.  
Chief Operating Officer

Cc: Honourable Bill Bennett, Minister of Energy and Mines  
Honourable Mary Polak, Minister of Environment  
Dave Nikolejsin, Deputy Minister, Ministry of Energy and Mines  
Wes Shoemaker, Deputy Minister, Ministry of Environment



File: 30200-25/PROS-19-05-06

Ref: 104322

July 14, 2014

John McManus  
Vice President Operations  
Taseko Mines Limited  
15<sup>th</sup> Floor – 1040 West Georgia St  
Vancouver BC V6E 4H1

Dear Mr. McManus:

Thank you for your letter of June 11, 2014. Your letter includes a request for a 5-year extension of the deadline specified in the Environmental Assessment Certificate (Certificate) M09-02 (as well as raising questions about the Environmental Assessment Office (EAO) policy related to extension requests), and includes a request that EAO complete its review of your application for an amendment to the Certificate (Application) to allow changes to the Project consistent with the New Prosperity Gold-Copper Project proposal (New Prosperity). Below are responses to each of these issues.

#### 1. Certificate Extension Request

First, EAO has considered your comment that the policy statement that the “Executive Director must be satisfied that granting an extension would not result in any significant adverse environmental, economic, social, heritage or health effects” must be in error, given that the *Environmental Assessment Act* allows Ministers to approve projects that have significant adverse effects. EAO agrees with you that this is a misstatement in the policy. The intention of the policy is to reflect some, but not necessarily all, of the information that would be considered by the Executive Director or Minister in making a decision on an extension request. Included in that is information on whether potential significant adverse effects have been identified since the Certificate was issued that were not considered during the original assessment.

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Environmental  
Assessment  
Office

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
1<sup>st</sup> & 2<sup>nd</sup> Fl – 836 Yates Street  
Victoria BC V8W 1L8

With respect to your request for EAO to consider a Certificate extension, we are of the view that the factors set in the Extension Policy and reproduced in the attached, are relevant to EAO's consideration of this request. As such, we request that you provide specific comments on those factors for EAO's consideration by August 5, 2014.

EAO will be inviting comments from First Nations and the Working Group on the extension request. The steps EAO will follow, and timelines for this review, are attached. The timelines recognize that the request for input from First Nations and the Working Group will be during the summer months when availability of key staff may be limited due to holiday schedules. They also recognize that the information and comments generated as a result of Taseko Mines Limited's (TML) Application to amend the Certificate may provide information relevant to addressing the factors noted in the Extension Policy, which EAO can be working with while First Nations and Working Group members are considering EAO's request for comments.

Finally, EAO notes that the Province is reviewing the June 26, 2014 decision of the Supreme Court of Canada regarding aboriginal title for the Tsilhqot'in Nation, and considerations for establishing aboriginal title more generally. Through the review of the extension request, EAO will be taking into consideration any implications from this decision, and will reflect that in its draft assessment for review.

## 2. Application to Amend the Certificate

EAO has considered whether it would be appropriate, at this time, to complete its Application review process and refer the Application for a decision by the Executive Director or Minister. Currently, EAO is of the view that it would not be practical to actively review the Application at this time because:

- TML has legal challenges underway questioning the procedural fairness, correctness, and legitimacy of the information on which EAO had intended to rely for its review of the Application. As a result, EAO would likely need to reassess and potentially revise its Application review procedures in order to continue with the review. In addition, federal agencies, TML and First Nations may be limited in the information and attention that they could provide to the review given the court proceedings.
- TML could not pursue the Project, as proposed to be amended, unless TML is successful in its court challenges and any subsequent federal consideration of the proposed Project. If TML is not successful with its current challenges, there may be an alternative Project plan that TML proposes to meet federal concerns, different from the Application currently proposed.

.../3

- The priority for EAO staff over the next several months will be considering TML's extension request. That is a time sensitive application. If the Certificate was to expire, or the extension request was denied, then, to state the obvious, there would be no Certificate to amend.

If TML has comments that it would like EAO to consider, or responses to the points noted above, EAO would be pleased to receive and consider them. If and when a Certificate extension is granted, EAO would be willing to reassess the factors listed above, and any other factors relevant at that time, to determine the appropriate next steps on the amendment Application.

Yours truly,



Shelley Murphy  
Executive Project Director

Enclosure: Procedure for Assessing Taseko Mines Limited's Request for a  
5-year Extension to Environmental Assessment Certificate M09-02

cc: Doug Caul, Associate Deputy Minister and Executive Director  
Environmental Assessment Office

## **Enclosure**

### **Procedure for Assessing Taseko Mines Limited's (TML) Request for a 5-year Extension to Environmental Assessment Certificate M09-02**

July 14, 2014

1. TML provides a response to the following factors as per the Environmental Assessment Office's (EAO) Certificate Extension Policy by August 5, 2014.
  - a. Have potential significant adverse effects been identified since the certificate was issued that were not considered during the original assessment (including potential cumulative impacts of increased industrial activity)?
  - b. Have there been changes to the design of the project, or new policy, statutes or guideline criteria that could impact the original effects analysis? These could result from:
    - i. new scientific and technical information,
    - ii. physical changes to the airshed, watershed or landscape,
    - iii. previously unknown or undetected effects, or,
    - iv. new information respecting First Nations interests.
  - c. Are there adverse economic or social effects if the certificate is not extended?
  - d. If material changes have developed or occurred, would the imposition of new or revised mitigation measures be justified?
  - e. Are the nature and scale of possible new mitigation measures sufficient to warrant reconstituting the working group or seeking additional public comments?
  - f. Has a substantial start of the project been delayed or prevented by reason of third party actions beyond the control of the proponent?
  - g. How will this proposed extension impact permitting?
2. First Nations and the Working Group provide comments on the extension request, in particular with respect to items (a) through (e) noted above, by August 25, 2014.
3. EAO will share among the parties TML's response to EAO's request for additional information, as well as First Nations' and Working Group comments on the factors for consideration.
4. EAO will prepare a draft assessment of the extension request and circulate to TML, First Nations and those Working Group members who have provided comments on the extension request or otherwise indicated an interest in being a part of the review of the extension request. EAO will provide this by October 3, 2014. TML, First Nations, and Working Group members will be given 3 weeks to provide comments.
5. EAO will consider comments received and revise the document, as appropriate. EAO will circulate the revised document within 2 to 3 weeks of the deadline for comments (depending on the nature of comments received). TML, First Nations, and Working Group members will be given 2 weeks to provide comments.
6. EAO will provide the final package to the Executive Director or Minister for decision in mid-December, 2014.



Page 434 of 478 to/à Page 468 of 478

Withheld pursuant to/removed as

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## **Response to Aug 25 letter re: Taesko's request for 5 year EAC extension**

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From: Kennedy, Karla EAO:EX<sup>s.15</sup>  
s.15  
To: ChiefJoe@tletincoxotin.ca, chief@xenigwetin.ca  
Cc: tng-director@tsilhqotin.ca, rmross@yunesitin.ca, percy@tsideldel.org,  
chief@esdilaghband.com, reception@toosey.ca, regionalchief@bcfn.ca,  
Murphy, Shelley EAO:EX <Shelley.Murphy@gov.bc.ca>,  
jlaplante@tsilhqotin.ca  
Sent: October 17, 2014 1:23:14 PM PDT  
Attachments: 104505\_Response\_Prosperty\_ChiefJAlphonse\_17Oct2014.pdf

Dear Chief Alphonse and Chief William,

Please see attached a response to your letter of August 25, 2014 regarding Taseko Mines request for a five year extension to its Environmental Assessment Certificate.

Thank you,

Doug Caul

Associate Deputy Minister

Environmental Assessment Office



File: 30200-25/PROS-19-10

Ref: 104505

**SENT VIA EMAIL**

October 17, 2014

Chief Joe Alphonse  
Tribal Chairman  
Tsilhqot'in National Government  
253 – 4 Avenue North  
Williams Lake BC V2G 4T4  
[ChiefJoe@tletincoxlin.ca](mailto:ChiefJoe@tletincoxlin.ca)

Chief Roger William  
Xeni Gwet'in First Nations Government  
Vice Tribal Chair, TNG  
General Delivery  
Nemah Valley BC V0L 1X0  
[chief@xenigwetin.ca](mailto:chief@xenigwetin.ca)

Dear Chief Alphonse and Chief William:

Thank you for your letter of August 25, 2014, regarding the Environmental Assessment Office's (EAO) consideration of Taseko Mines Limited's (TML) request for a five year extension to its Environmental Assessment Certificate (Certificate).

EAO appreciates receiving comments both on the specific questions posed in Shelley Murphy's letter of July 15, 2014, as well as Tsilhqot'in National Government's (TNG) overall perspective on the extension request. I have confirmed with Ms. Murphy, the lead for the review of the extension request, that TNG's comments will be reflected in EAO's report on the extension request.

I am advised that on October 3, 2014, Ms. Murphy circulated a draft report on the extension request so that First Nations, TML and agencies can provide comments, including how EAO has reflected and considered their input. EAO looks forward to receiving further input from TNG.

.../2

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**Environmental  
Assessment  
Office**

Office of the  
Associate  
Deputy Minister

Mailing Address:  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Location:  
2<sup>nd</sup> Fl – 836 Yates St  
Victoria BC V8W 1L8

Sincerely,



Doug Caul  
Associate Deputy Minister

cc: Chief Bernie Elkins  
?Esdilagh First Nation  
[chief@esdilaghband.com](mailto:chief@esdilaghband.com)

Chief Percy Guichon  
Tsi Deldel First Nation  
[percy@tsideldel.org](mailto:percy@tsideldel.org)

Chief Francis Laceese  
Tl'esqox  
[reception@toosey.ca](mailto:reception@toosey.ca)

Chief Russell Ross  
Yunetsit'in Government  
[rmross@yunesitin.ca](mailto:rmross@yunesitin.ca)

Chief Jody Wilson-Raybould (Puglaas), Regional Chief  
First Nations Leadership Council  
[regionalchief@bcafn.ca](mailto:regionalchief@bcafn.ca)

Crystal Verhaegh  
Tsilhqot'in National Government  
[tng-director@tsilhqotin.ca](mailto:tng-director@tsilhqotin.ca)

JP Laplante, Oil and Gas Manager  
Tsilhqot'in National Government  
[jlaplante@tsilhqotin.ca](mailto:jlaplante@tsilhqotin.ca)

Shelley Murphy, Executive Project Director  
Environmental Assessment Office  
[Shelley.Murphy@gov.bc.ca](mailto:Shelley.Murphy@gov.bc.ca)



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Taseko Mines Limited  
15th Floor, 1040 West Georgia St.  
Vancouver, BC V6E 4H1  
tasekomines.com

October 24, 2014

COPY

Doug Caul  
Associate Deputy Ministry and Executive Director  
Environmental Assessment Office  
PO Box 9426 Stn Prov Gov't  
Victoria BC V8W 9V1

Dear Mr. Caul:

**Re: Draft Prosperity Certificate Extension Report – Certificate #M09-02**

We are writing further to Ms. Murphy's email of October 3, 2014 inviting comments on a draft Certificate Extension Report (draft Report). These comments supplement those previously expressed in our company's email of October 6, 2014, as well as our correspondence of June 11, 2014 and July 30, 2014. Our comments on the draft Report are as follows:

**A) The draft Report includes extensive summaries of responses to policy factors which are not relevant to this Project**

The draft Report does not communicate that the Act has no substantive requirements that are prerequisites to this extension. The policy factors which the EAO Director considers for guidance were not developed with our Project in mind; a Project which has been through two federal environmental reviews since our certificate was issued and is currently being reviewed by the Province for an amendment.

Only three of the policy factors are actually relevant to our extension request:

- Are there adverse economic or social effects if the certificate is not extended? **Yes**
- Has substantial start of the project been delayed or prevented by reason of third party actions beyond the control of the proponent? **Yes**
- How will this proposed extension impact permitting? **No impact**

The remaining policy factors (regarding any adverse effects being identified since the certificate was issued, re-design of the Project, and new mitigation measures) are not relevant as they should be considered by the Province through the ongoing amendment process. Application of these factors unnecessarily complicates the certificate extension request.



***We request that the EAO clarify the distinction between those factors relevant, in this Project's case, to the extension request, versus those being considered through the ongoing amendment process.***

**B) The draft Report lacks a thorough description of Taseko's efforts to start the Project**

We believe the most relevant factor for assessing an extension request should be whether the proponent has, in good faith, evidenced a desire to proceed with the project, and if there was a legitimate reason for not having commenced construction within the initial five years.

The Province should be aware of the progress Taseko has made, and resources we have expended, to advance the Project since the certificate was issued. This work includes: archaeological investigations; sensitive habitat and other ecological investigations; water and air quality investigations and monitoring; and, compensation planning. These efforts were initiated to address the 103 commitments and, in particular, those key commitments referred to on page 3 of the draft Report.

***We request that the EAO incorporate into the Report a description of the extensive efforts Taseko has made to date to address the certificate commitments and proceed with permitting as evidence of our desire to proceed with the Project.***

**C) The draft Report contains wording that Taseko considers biased towards having the existing certificate expire, forcing a 4<sup>th</sup> EA review**

On page 15, the draft Report implies that a new EA is potentially more beneficial to realizing economic and social effects rather than extending the certificate.

The text is written as "the federal rejections and the on-going litigation create uncertainty as to whether the mine could proceed to development and whether those benefits would be realized, even if TML were successful in extending and amending its Certificate. If the extension is not granted, TML could reapply for an EA certificate.... [and if granted] the predicted economic and social benefits from the mine construction and operation may be realized".

***We request that the EAO instead replace that text quoted above with the following:***

"Subject to the outcome of the on-going litigation with the federal government, the predicted economic and social benefits from the mine construction and operation would be realized if TML were successful in extending and amending its Certificate."



**D) The draft Report contains wording suggesting that a new EA would be more thorough**

The draft Report raises the notion of possibly denying an extension request on the basis that a new environmental assessment process for the revised project might be better than the amendment process that is presently underway.

Specifically, page 23 states, "An amendment process typically has a narrower scope than a full EA, even if the full EA was scoped to focus mainly on key elements that have changed since the certificate was issued".

There is no basis for this statement in either law or EAO practice. Section 19 of the Act gives the Executive Director all the powers he needs to establish whatever process he considers necessary for an amendment application, and some have been extremely in-depth and onerous. An example would be the full assessment report and multi-year process completed in respect of the amendment application concerning the Tulsquequah Chief Mine.

It is our view that a new, 4th EA process would be unfair to the proponent and in conflict with the EAO's own *Fairness and Service Code*, and likely be less efficient for addressing any remaining issues of concern arising from the most recent federal review process.

***We request that the EAO review the Report and ensure the wording acknowledges that Executive Director has the ability to establish as simple or as onerous an amendment process as he considers appropriate.***

**E) The draft Report does not adequately explain that outstanding issues or concerns could be discussed at Working Group meetings as part of the amendment process**

The EAO's process for the amendment commits the EAO to conducting a review of the federal panel report to assess whether supplemental information is required to inform the EA amendment decision. Since December 2013, we have no record of the EAO requesting supplemental information or attempting to establish working groups for topic areas such as moose and access planning, habitat compensation, wetland monitoring, water management, monitoring and groundwater mitigation, etc. either for the mine site area or the transmission line. FLNRO raised concerns (page 16) about the scope of the amendment process potentially limiting EAO's consideration of potential effects related to the transmission line, and stated that those concerns should be considered in the review of the extension request.

***In addition to our request D above, we request that the EAO clarify in the Report that potential effects and mitigation measures arising from the New Prosperity review be directed to Working Groups for the amendment process rather than the extension request.***



**F) The draft Report raises the question of whether an extension should be granted while an amendment application is ongoing**

We note that this does not appear to have been an issue for other applicants that were seeking both a certificate extension and an amendment at the same time. In this regard, we refer to the Pacific Trails Pipeline project where a five-year extension request was submitted on April 1, 2013 and granted less than three months later even though several amendment applications were outstanding. It appears that the extension application and amendments application both got timely and simultaneous consideration.

***We request that the EAO remove the statement on page 19 that the EAO does not intend to “actively review the amendment at this time”***

**G) The draft Report contains summarized commentary from submissions that are irrelevant to the extension request**

Some examples include:

- How does EAO's incorporation of FLNRO 's comment (page 11) pointing to the breach of the tailings facility at Mount Polley factor in the extension request? The detailed engineering design and operations of a tailings storage facility are reviewed at the permitting stage (with the BC Ministry of Mines and Energy) not environmental assessment stage.
- How does the EAO's incorporation of the TNG's submitted comment (page 21) that “Denying the extension would demonstrate leadership and heightened vigilance and would be a first step to restore Tsilhqot'in faith in BC's EA process” factor in to the Executive Director's decision on the extension request?
- How does EAO's comment (page 21) which acknowledges the LOU signed by Premier Clark and TNG Chiefs on September 10, 2014 setting out a commitment to work towards long term reconciliation factor in to the Executive Director's decision on the extension request?

***We request that the EAO review the Report to ensure that the comments compiled and presented are only those relevant to the extension request.***





**H) The draft Report raises the question of whether an extension should be granted recognizing that the federal government, at present, has refused to approve the New Prosperity Project**

We think it is inappropriate for page 19 of the Report to state, in the last paragraph, that uncertainty regarding other applicable permits is a relevant factor.

In our view, there is ample administrative law authority for the proposition that decision-makers must turn their minds to the merits of an application before them, and cannot fetter or improperly delegate their decision-making to another governmental authority that also has responsibilities for issuing necessary permits for projects or undertakings.

To our knowledge, the EAO has never cited rejection from another level of government as a reason to refuse an extension or indeed any authorization under the EAO. To the contrary, the EAO has issued authorizations and extensions for other projects that had previously faced rejections from other relevant government authorities.

***We request that the EAO remove the reference on page 19 to the “outcome of the federal Court action” as a factor to be considered in the certification extension.***

**I) The draft Report does not clearly summarize that there is no risk in granting the extension**

The draft Report muddles commentary provided by others on the impact of constructing the Project as originally designed, with effect of the outstanding issues or concerns identified in the federal review of the New Prosperity Project. The EAO needs to clarify what is relevant to this extension request versus the amendment currently under review by the Province.

The draft Report summarizes that the Project, as certified, cannot be built, and the ongoing litigation creates uncertainty that the social and economic benefits that would be realized. The draft Report does not balance these statements by stating that there is no environmental, social, heritage, health, or economic effect of extending the certificate because the Project cannot be built, as originally certified.

There is no risk in granting the extension; however, granting of the extension enables the EAO to complete their amendment review.

***We request that the EAO explicitly state in the Report that there is no risk to extending the Prosperity certificate.***

**J) A 3<sup>rd</sup> alternative to the options presented on page 23**

As a final and overarching matter, we must express our concern with the lack of clarity that we feel has prevailed in this process to date, and particularly some of the departures that we have seen from what we understood would be the related certificate amendment process. As such, and in the circumstances, we believe that a third option should be included in the Report.

The third option would ask the minister to suspend the expiration of the existing 5 year certificate term in the public interest, under section 31 of the *Environmental Assessment Act*, until the uncertainties respecting the related federal process are litigated, or, otherwise addressed through Taseko's engagements with the federal government and/or First Nations. This approach would also allow completion of the amendment process to await that litigation or engagements, and would be consistent with EAO precedent. Specifically, it would be consistent with the approach taken by the Minister of Environment in respect of the Melvin Creek/Cayoosh Mountain Resort project (see [http://a100.gov.bc.ca/appsdata/epic/documents/p30/1123801985054\\_eed0e9fe222c40bcae05bebe13a49dc9.pdf](http://a100.gov.bc.ca/appsdata/epic/documents/p30/1123801985054_eed0e9fe222c40bcae05bebe13a49dc9.pdf)).

While we are not entirely satisfied with the EAO certificate extension or amendment processes to date, and while we do not believe the existence of the court proceedings provides any reason whatever to reject a certificate extension request or delay an amendment review, we believe this third option could be in the interest of all parties and is an option our company could be amenable to on appropriate terms.

***We request that the EAO include the 3<sup>rd</sup> option in the final version of the Report.***

We trust you will incorporate these comments into your final Report. We are available to provide further information or clarification on the above comments should that be required.

Sincerely,

Taseko Mines Limited



Katherine G. Gizikoff, M.Sc. P.Ag.  
Director, Environment and Government Affairs

cc: John W. McManus, Chief Operating Officer, Taseko Mines  
Dave Nikolejsin, Deputy Minister, Ministry of Energy and Mines  
Shelley Murphy, Executive Project Director, Environmental Assessment Office



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November 18, 2014

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Environmental	MCS
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VIA MAIL/EMAIL

**DOUG CAUL**

Associate Deputy Minister and Executive Director  
Environmental Assessment Office  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Dear Mr. Caul,

This letter is in response to BCEAO's second draft of the Certificate Extension Request Report for the Prosperity Gold-Copper Project dated November 14, 2014.

As we have discussed, Taseko Mines Limited considers this to be a straight forward matter. The project was issued a BC Environmental Assessment Office certificate in 2010. The project has not been able to be substantially started due to the delays and prevention caused by third party actions beyond the control of the proponent. The fact that, in our case, the delay is caused by the Federal Government's reaction to the activities of First Nations and others, as is documented in the Certificate Extension Request report, should not carry any more weight than if the delay were caused by low commodity prices, inactive financial markets, or any number of other situations which would have the same effect.

I believe that the timelines in the Environmental Assessment Act are clear and make business sense. The proponent has 5 years to substantially start a project after being issued a certificate. If the proponent has actively pursued the project to the best of their ability but have not been able to substantially start the project due to factors beyond their control then the certificate is extended, once, for an additional 5 years.

Regards,

Taseko Mines Limited

John W. McManus, P. Eng.  
Chief Operating Officer

cc: Shelley Murphy, Executive Project Director, Environmental Assessment Office