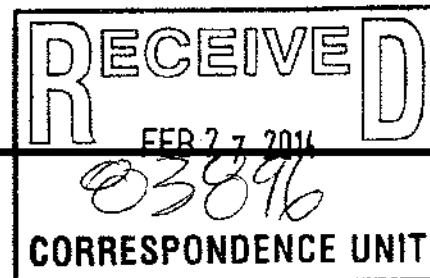


Holding, Lea MEM:EX



From: Minister, MNGD MNGD:EX
Sent: Thursday, February 27, 2014 2:00 PM
To: MEM Correspondence MEM:EX
Subject: FW: Supporter's News Releases re NP Rejection
Attachments: 2014 02 26 Friends of Nemaiah Valley - New Prosperity Rejection.doc; 2014 02 27 Fish Lake Alliance Press Release re Rejection of NP.docx; 2014 02 27 Friends of Fish Lake Press Release.doc; 2014 02 27 FLA Open Letter to Leona Aglukkaq Feb 27 14.docx

Info file, please

From: Coleman.MLA, Rich [mailto:Rich.Coleman.MLA@leg.bc.ca]
Sent: Thursday, February 27, 2014 11:43 AM
To: Minister, MNGD MNGD:EX
Subject: FW: Supporter's News Releases re NP Rejection

From: J.P. Laplante [mailto:jlaplante@tsilhqotin.ca]
Sent: February 27, 2014 11:35 AM
To: jlaplante@tsilhqotin.ca
Subject: Supporter's News Releases re NP Rejection

Fyi, below and attached are several news releases that I'm forwarding:

- 1) Sierra Club BC: "Sierra Club BC Welcomes Rejection of New Prosperity Mine"
<http://www.sierraclub.bc.ca/media-centre/press-releases/sierra-club-bc-welcomes-rejection-of-new-prosperity-mine>
- 2) Friends of Nemaiah Valley (below and attached)
- 3) Fish Lake Alliance (below and attached)
- 4) Friends of Fish Lake (below and attached)
- 5) Fish Lake Alliance Open Letter to Minister Aglukkaq (below and attached)

- 1) Sierra Club BC
<http://www.sierraclub.bc.ca/media-centre/press-releases/sierra-club-bc-welcomes-rejection-of-new-prosperity-mine>

Sierra Club BC Welcomes Rejection of New Prosperity Mine

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Contact:

Bob Peart, Executive Director (778) 922-3295

Ana Simeon, Communications Director (250) 891-8245

1)

2) Friends of Nemaiah Valley:

FOR IMMEDIATE RELEASE: NEW PROSPERITY MINE REJECTION - FEBRUARY 26, 2014

Media contact:

David Williams (Friends of the Nemaiah Valley) 250 592-1088/e-mail: dawilliams2@shaw.ca

Copyright

Fish Lake Alliance

s.22

4) Friends of Fish Lake

Feb. 27, 2014

FOR IMMEDIATE RELEASE:

Friends of Fish Lake Applauds Environment Minister's Decision on New Prosperity Mine

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Contact Info:
s.22

5) Fish Lake Alliance Open Letter

Feb 27, 2014

Open Letter to federal Environment Minister Leona Aglukkaq from the Fish Lake Alliance

Copyright

s.22



Copyright

1010 Foul Bay Road, Victoria, B.C.
Canada, V8S 4J1
Tel/Fax: 250-592-1088

**FOR IMMEDIATE RELEASE: NEW PROSPERITY MINE
REJECTION - FEBRUARY 26, 2014**

Media contact:

David Williams (Friends of the Nemaiah Valley) 250 592-1088/e-mail: dawilliams2@shaw.ca

A Society incorporated under the B.C. Society Act

www.fonv.ca

Copyright

Fish Lake Alliance

s.22



Feb. 27, 2014

FOR IMMEDIATE RELEASE:

Friends of Fish Lake Applauds Environment Minister's Decision on New Prosperity Mine

Copyright

s.22

Ferguson, Susan M MEM:EX

From: Minister, MEM MEM:EX
Sent: Monday, March 3, 2014 4:47 PM
To: MEM Correspondence MEM:EX
Subject: FW: Time to accept Fish Lake decision.

Response OBH of PCC. Thanks

From: Gail Cotter s.22
Sent: February-27-14 8:15 PM
To: OfficeofthePremier, Office PREM:EX
Cc: Minister, MEM MEM:EX
Subject: Time to accept Fish Lake decision.

Dear Premier Clark;

Copyright

Yours truly,
Gail Cotter,
s.22

Ferguson, Susan M MEM:EX

From: Minister, MEM MEM:EX
Sent: Monday, March 3, 2014 4:50 PM
To: MEM Correspondence MEM:EX
Subject: FW: your outrageous decision to appeal yesterday's Prosperity Mine Decision!

Respond OBH of PCC. Thanks

From: Bennett.MLA, Bill [<mailto:Bill.Bennett.MLA@leg.bc.ca>]
Sent: February-27-14 2:47 PM
To: Minister, MEM MEM:EX
Subject: FW: your outrageous decision to appeal yesterday's Prosperity Mine Decision!

From: s.22
Sent: February 27, 2014 12:25 PM
To: Bennett.MLA, Bill; premier@gov.bc.ca
Cc: Dix.MLA, Adrian; Fraser.MLA, Scott; McRae.MLA, Don
Subject: RE: your outrageous decision to appeal yesterday's Prosperity Mine Decision!

Premier Christy Clark and Hon. Bill Bennett

Copyright

For those of you not familiar with this story please go to www.canadiandimensions.com/articles/5888

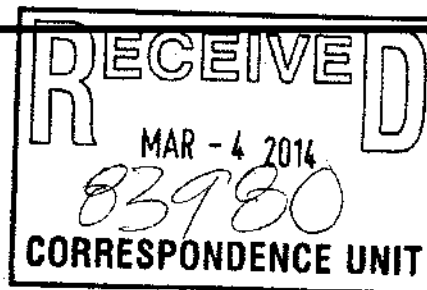
Sincerely,

John and Rosemary Baxter
Courtenay

CC: Don Mcrae, MLA, Comox Valley, Scott Fraser, Opposition Mining Critic, Adrian Dix, Leader of
the Opposition
others

Holding, Lea MEM:EX

From: Minister, MEM MEM:EX
Sent: Monday, March 3, 2014 4:54 PM
To: MEM Correspondence MEM:EX
Subject: FW: Prosperity mine decision



Info/File please

From: s.22
Sent: February-27-14 9:31 AM
To: PM@pm.gc.ca; minister@ec.gc.ca
Cc: harrir1@parl.gc.ca; cathy.McLeod.c2@parl.gc.ca; OfficeofthePremier, Office PREM:EX; Minister, MEM MEM:EX
Subject: Prosperity mine decision

Dear Prime Minister,

I am writing to voice my dismay and disapproval of your Environment Minister's decision to turn down this mine application.

Mines are huge economic generators for the Province and are in the public's best interest. The trade off of environmental impact is very small compared to the benefits.

Almost all of the central interior of BC has been logged to use the beetle wood before it is too dried out without any concern from your government yet a small impact, high value mine is rejected. Meanwhile, industrial impact of unprecedented scale is allowed to occur in Alberta's oil sands. Where is the consistency in your government's decision making process?

Additionally, turning down this mine because of First Nation concerns over spiritual aspects of a lake is absurd in this day and age. Moreover, it opens the door to naming any place 'sacred' if the native group is opposed to the development. This is the second lake labelled 'sacred' by natives that has killed a mine application (Duncan lake at the Kemess mine was the other). This quasi-religious aspect has to be rejected in decision making as an affront to modern society.

Again, I am very annoyed that your government rejected such a valuable project.

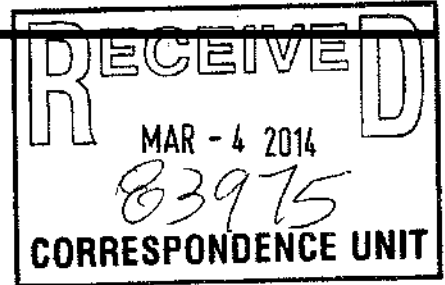
Yours,

s.22

MMED

Holding, Lea MEM:EX

From: Minister, MEM MEM:EX
Sent: Tuesday, March 4, 2014 12:57 PM
To: MEM Correspondence MEM:EX
Subject: FW: New Prosperity



Info/file please Thanks

-----Original Message-----

From: s.22
Sent: February-27-14 5:04 PM
To: Minister, MEM MEM:EX
Subject: New Prosperity

Mr Bennett,

I heard your interview on CBC this morning and I appreciate your continued support for the BC mining industry.

However, the issue is the flawed federal review panel: they did not properly weigh the evidence as presented. They chose to believe the "expert opinion" of one federal office over the presentation of world experts on tailings disposal - hence, and rightly so, the judicial appeal launched by Taseko. And it seems that one cannot hope for Harper et al to see through the flawed charade.

The procedure and process is flawed.

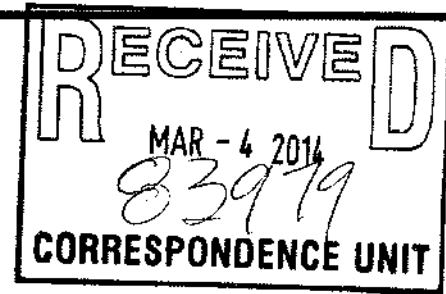
I wonder if there is a hidden agent. Appease the greenies and natives now and later OK the Northern Gateway project?

Unfortunately this has cast a pall over resource investment in BC. However the BC government can help to counter this negative decision by rapidly approving permits, such as Morrison, Ajax, Raven and Harper Creek.

s.22

Holding, Lea MEM:EX

From: Minister, MEM MEM:EX
Sent: Monday, March 3, 2014 4:54 PM
To: MEM Correspondence MEM:EX
Subject: FW: Taseko Mines' Prosperity Deposit



Info/File please

From: s.22
Sent: February-26-14 11:21 PM
To: jim.flaherty@parl.gc.ca; jason.kenney@parl.gc.ca; james.moore@parl.gc.ca; Joe.Oliver@parl.gc.ca; Kerry-Lynne.Findlay@parl.gc.ca; Michelle.Rempel@parl.gc.ca
Cc: colin.mayes@parl.gc.ca; richard.harris@parl.gc.ca; Minister, MEM MEM:EX
Subject: Taseko Mines' Prosperity Deposit

Dear Minister,

Regarding not granting a permit for this deposit, I am very upset and depressed. I find it unfathomable that a Conservative government would make such a stupid and economically damaging decision. If misunderstandings and ignorance are how the government makes decisions I, as a professional geologist, will find it very difficult to recommend any resource investments in BC and in Canada. There are many operating mines in Canada that have a very similar setting. Are these to be shut down now? In the permit application many independent professional geoscientists signed and stamped their approval that the proposal would protect the environment. Some may say that the government has slandered these professionals by essentially calling them liars.

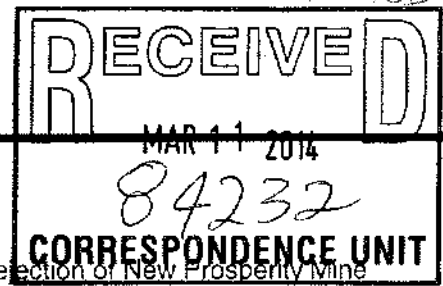
Within a few days the largest mineral exploration and mining conference in the world, PDAC, will start. The talk will be this difficult-to-understand decision. With investors and companies from all over the world present, this will be a devastating black eye on the investing climate in Canada. Money will leave for less risky countries.

This decision is even more bizarre with all the Conservative campaigning on how badly the Liberals and NDP will mismanage the economy! Why should I continue to support the Tories now?

s.22

Holding, Lea MEM:EX

From: Minister, MNGD MNGD:EX
Sent: Monday, March 10, 2014 4:58 PM
To: MEM Correspondence MEM:EX
Subject: FW: Tsilhqot'in NR: First Nations Celebrate Federal Rejection of New Prosperity Mine proposal
Attachments: 2014 02 27 First Nations Celebrate Federal Rejection of New Prosperity Mine proposal.doc



Info file, please

From: Coleman, MLA, Rich [mailto:Rich.Coleman.MLA@leg.bc.ca]
Sent: Thursday, February 27, 2014 11:15 AM
To: Minister, MNGD MNGD:EX
Subject: FW: Tsilhqot'in NR: First Nations Celebrate Federal Rejection of New Prosperity Mine proposal

From: J.P. Laplante [mailto:jlaplante@tsilhqotin.ca]
Sent: February 27, 2014 8:51 AM
To: jlaplante@tsilhqotin.ca
Subject: Tsilhqot'in NR: First Nations Celebrate Federal Rejection of New Prosperity Mine proposal

Hi folks,

Attached and below is the Tsilhqot'in News Release celebrating yesterday's decision, which also has quotes from National Chief Shawn A-in-chut Atleo and UBCIC President, Grand Chief Stewart Phillip.

Regards,

JP



TŚILHQOT'IN NATIONAL GOVERNMENT

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

First Nations Celebrate Federal Rejection of New Prosperity Mine proposal

This must now be the end to 20-year effort to turn pristine area into open-pit disaster

Tsilhqot'in Territory, BC (February 27, 2014): Copyright

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Page 017 of 197

Withheld pursuant to/removed as

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MEDIA:

Chief Joe Alphonse – 250-305-8282

Chief Roger William – on Thursday: 250-394-7023 ext. 203; on Friday: 250-267-6593

Grand Chief Stewart Phillip – 250-490-5314

For National Chief Shawn Atleo, contact Jenna Young at 613-241-6789 ext. 401; 613-314-8157 or jyoung@afn.ca

Assistance Reaching Tsilhqot'in Chiefs: JP Laplante, 250-267-3759

Link to the Federal Decision Statement: <http://www.ceaa-acee.gc.ca/050/document-eng.cfm?document=98459>



TŜILHQOT'IN NATIONAL GOVERNMENT

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

First Nations Celebrate Federal Rejection of New Prosperity Mine proposal

This must now be the end to 20-year effort to turn pristine area into open-pit disaster

Tsilhqot'in Territory, BC (February 27, 2014): Copyright

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Grand Chief Stewart Phillip – 250-490-5314

For National Chief Shawn Atleo, contact Jenna Young at 613-241-6789 ext. 401; 613-314-8157
or jyoung@afn.ca

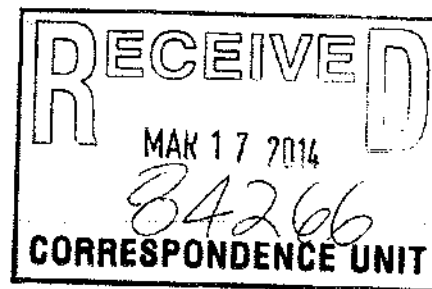
Assistance Reaching Tsilhqot'in Chiefs: JP Laplante, 250-267-3759

Link to the Federal Decision Statement: <http://www.ceaa-acee.gc.ca/050/document-eng.cfm?document=98459>

Holding, Lea MEM:EX

From: Minister, MEM MEM:EX
Sent: Monday, March 17, 2014 11:40 AM
To: MEM Correspondence MEM:EX
Subject: FW: Prosperity Mine

Info/File please. Thanks



From: Bennett.MLA, Bill [<mailto:Bill.Bennett.MLA@leg.bc.ca>]
Sent: March-10-14 1:21 PM
To: Minister, MEM MEM:EX
Subject: FW: Prosperity Mine

From: s.22
Sent: March 10, 2014 1:30 PM
To: Premier@gov.bc.ca; Bennett.MLA, Bill
Cc: McRae.MLA, Don
Subject: Prosperity Mine

Dear Premier Clark and Mr. Bennett

I was shocked to see that the government intends to appeal the Federal decision against the Prosperity Mine. How many times do you have to be told "NO" before you will accept that this mine is not a good idea? Why are you spending the taxpayers' money to appeal this very sensible decision? It is becoming more and more apparent that you are not working for the well-being of the people (who pay your salaries) and the environment of British Columbia, but instead are working for the benefit of mining companies. And it is not the same thing, so please don't try to convince me that it is.

Your lack of integrity on this issue is astounding (but I have to say, not terribly surprising).

Sincerely,

s.22
 Cumberland, BC

March 19, 2014

Dear Minister Bill Bennett,

I am very thankful for the decision made by the federal government regarding the New Prosperity Mine proposal.

Sincerely,

MINISTRY OF ENERGY AND MINES
RECEIVED
APR 02 2014
DEPUTY MINISTER'S OFFICE
LOG#

s.22

MINISTER OF ENERGY AND MINES
REFERRAL NUMBER 84542
REFER TO:
DRAFT REPLY ☐ INFO FILE ☒ REPLY DIRECT ☐
RECEIVED MAR 21 2014
REMARKS:

*The Vancouver
Sun - Tuesday,
September 12/13*

PETER WOOD, PHD
*Terrestrial Campaigns
Director, Canadian
Parks and Wilderness
Society — BC Chapter*

REV. EMILIE SMITH
*Rector, St. Barnabas Anglican
Church, New Westminster*

Friday, February 28, 2014 | 3

yournews



Mine operator vows to fight rejection of project

JEREMY NUTTALL
24 hours
@jeremy24hours



**It's the only
move that the
government could
have made. »**

— John Werring,
David Suzuki Foundation

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Harper comes down hard on Taseko plan

PM cites environment, land claims among reasons for rejection

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DERRICK PENNER

VANCOUVER SUN

AND PETER KOVEN

POSTMEDIA NEWS

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depenner@vancouver.sun.com
[Twitter.com/derrickpenner](https://twitter.com/derrickpenner)

Firth, Janet MEM:EX

From: Minister, MEM MEM:EX
Sent: Friday, March 28, 2014 2:00 PM
To: s.22
Cc: 'Premier@gov.bc.ca'; McRae.MLA, Don LASS:EX
Subject: New Prosperity Mine

Ref: 84022

Dear Mr. and Ms. Baxter:

Thank you for your February 27, 2014 email regarding the New Prosperity Mine.

On February 26, 2014, the Government of Canada announced that Taseko Mines Limited's (Taseko) New Prosperity project was likely to cause significant adverse environmental effects that cannot be mitigated.

The Province of British Columbia is disappointed with the federal government's February 2014 decision on New Prosperity. However, it is important to note that the federal government has invited Taseko to submit another proposal "that addresses the government's concerns." The Province made its position on New Prosperity clear, and we will now wait to hear from Taseko on its plans to respond to the federal government.

British Columbia has several open pit copper-gold mines similar to New Prosperity currently operating at socially and environmentally acceptable levels. The Province takes responsible resource development very seriously and is proud of its track record.

Thank you, again, for writing.

Sincerely,

Bill Bennett
Minister of Energy and Mines

Firth, Janet MEM:EX

From: Minister, MEM MEM:EX
Sent: Friday, March 28, 2014 2:38 PM
To: s.22
Cc: 'Premier@gov.bc.ca'
Subject: New Prosperity Mine

Ref: 84024

Dear Ms. Cotter:

Premier Christy Clark has asked me to respond to your February 27, 2014 email regarding the New Prosperity Mine.

On February 26, 2014, the Government of Canada announced that Taseko Mines Limited's (Taseko) New Prosperity project was likely to cause significant adverse environmental effects that cannot be mitigated.

The Province of British Columbia is disappointed with the federal government's February 2014 decision on New Prosperity. However, it is important to note that the federal government has invited Taseko to submit another proposal "that addresses the government's concerns." The Province made its position on New Prosperity clear, and we will now wait to hear from Taseko on its plans to respond to the federal government.

British Columbia has several open pit copper-gold mines similar to New Prosperity currently operating at socially and environmentally acceptable levels. The Province takes responsible resource development very seriously and is proud of its track record.

Thank you for writing.

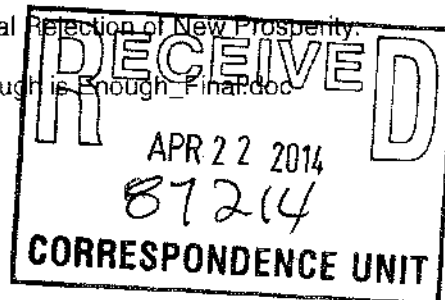
Sincerely,

Bill Bennett
Minister of Energy and Mine

Holding, Lea MEM:EX

MMAD

From: Minister, MNGD MNGD:EX
Sent: Tuesday, April 22, 2014 3:07 PM
To: MEM Correspondence MEM:EX
Subject: FW: First Nations Respond to Judicial Review of Federal Rejection of New Prosperity: "Enough is Enough"
Attachments: 2014 03 26 Tsilhqot'in NR - Response to TML JR - Enough is Enough_Final.doc



Info file, please

-----Original Message-----

From: Coleman, MLA, Rich [mailto:Rich.Coleman.MLA@leg.bc.ca]
Sent: Sunday, April 6, 2014 2:13 AM
To: Minister, MNGD MNGD:EX
Subject: FW: First Nations Respond to Judicial Review of Federal Rejection of New Prosperity: "Enough is Enough"

From: J.P. Laplante [jlaplante@tsilhqotin.ca]
Sent: March 26, 2014 1:22 PM
To: jlaplante@tsilhqotin.ca
Subject: First Nations Respond to Judicial Review of Federal Rejection of New Prosperity: "Enough is Enough"

Please share this Tsilhqot'in News Release (attached and below) with your contacts.

Link: <http://www.teztanbiny.ca/first-nations-respond-judicial-review-federal-rejection-new-prosperity-enough-enough/>

First Nations Respond to Judicial Review of Federal Rejection of New Prosperity:
"Enough is Enough"

Tsilhqot'in Territory, BC (March 26, 2014): Copyright
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MEDIA:

Chief Joe Alphonse - 250-305-8282

Chief Roger William - 250-394-7023 ext. 203 (After Fri: 250-267-6593) For Assistance Reaching the Chiefs: JP Laplante, 250-267-3759

J.P. Laplante

Mining, Oil and Gas Manager

Tsilhqot'in National Government

253 4th 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/>>

Facebook: Teztan Biny Facebook Fanpage<<http://www.facebook.com/pages/Teztan-Biny/272599002867119>>



TŜILHQOT'IN NATIONAL GOVERNMENT

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

First Nations Respond to Judicial Review of Federal Rejection of New Prosperity: “Enough is Enough”

Tsilhqot'in Territory, BC (March 26, 2014): ^{Copyright}

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MEDIA:

Chief Joe Alphonse – 250-305-8282

Chief Roger William – 250-394-7023 ext. 203 (After Fri: 250-267-6593)

For Assistance Reaching the Chiefs: JP Laplante, 250-267-3759

Link: <http://www.teztanbiny.ca/first-nations-respond-judicial-review-federal-rejection-new-prosperity-enough-enough/>

Ferguson, Susan M MEM:EX

From: Minister, MEM MEM:EX
Sent: Monday, May 5, 2014 2:23 PM
To: MEM Correspondence MEM:EX
Subject: FW: Support Mining in BC
Attachments: Bennett.pdf

Minister's response. Cc MLA Foster please. Thanks

From: s.22
Sent: May-04-14 11:41 AM
To: Minister, MEM MEM:EX
Cc: Minister, ENV ENV:EX
Subject: FW: Support Mining in BC

Dear Sir: - I live in Vernon BC and was quite pleased to see an article describing the your support for the prosperity mine near Williams Lake, BC in our local paper. I have attached a copy of that article to this email.

I am hoping that you are also rallying behind the Morrison Property Proposal put forth by Pacific Booker Minerals. It is located approximately 205 km north of Granisle near Burns Lake. This area has also been severely impacted by the Mountain Pine Beetle and the tragic fire of the mill in Burns Lake. I used to work in this area and was there when the Granisle and Bell Copper mines were being decommissioned after 20+years of successful mining.

I am sure you are aware that their application was turned down on Oct. 1, 2012 after completing the Environmental Assessment process with no significant environmental, First Nation, infrastructure, etc. impacts. Subsequently, the decision to not issue the environmental certificate so the mine could proceed was "quashed" by the courts and the Company is allowed to re submit for decision.

Thanks and I am hoping for your support for this project both at the Provincial and Federal level.

s.22

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This email is free from viruses and malware because avast! Antivirus protection is active.

News

Province presses for Cariboo copper and gold mine

TOM FLETCHER

Black Press

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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

RECEIVED	
DEPUTY MINISTER'S OFFICE	
MINISTRY OF ENERGY AND MINES	
CLIFF NUMBER: _____	REFER TO: _____
DRAFT <input type="checkbox"/>	<input type="checkbox"/> NECESSARY
REPLY <input type="checkbox"/>	ACTION
INFO/ FILE <input type="checkbox"/>	JUN 20 2014
REMARKS _____	

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.

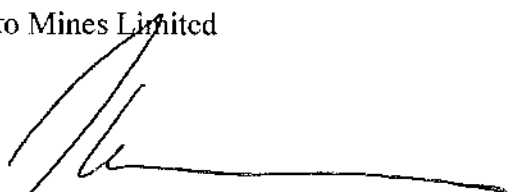
On the related matter of the certificate amendment application, we are also at this time asking that EAO complete its process and refer the amendment request for a decision by the minister, pursuant to subsection 19(3) of *Environmental Assessment Act*. While we know EAO originally delayed this decision 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



MMRD
Taseko Mines Limited
15th Floor, 1040 West Georgia St.
Vancouver, BC V6E 4H1
tasekomines.com

June 18, 2014

Honourable Bill Bennett
Minister of Energy and Mines and Minister Responsible for Core Review
Parliament Buildings
Victoria, BC
V8V 1X4

Dear Minister Bennett, *Bill*

MINISTER OF ENERGY AND MINES	
REFERRAL NUMBER	
REFER TO:	
DRAFT REPLY <input type="checkbox"/>	INFOREQ <input checked="" type="checkbox"/> REQUEST <input type="checkbox"/>
RECEIVED	JUN 25 2014
REMARKS:	85767

The attached article on provincial revenue sharing with First Nations appeared recently in the Vancouver Sun.

I wrote it because I wanted people to know more about the value mining represents for aboriginal people living in BC. For these same reasons I have written a similar letter to British Columbia Members of Parliament and their colleagues on the Planning and Priorities Committee of Cabinet.

As you know, the provincial revenue sharing policy commits the Government of British Columbia to share with participating First Nations up to 37% of the BC Mineral Tax that would be generated by our New Prosperity project.

With New Prosperity expected to generate (at projected long-term metal prices) close to \$500 million in mineral tax, local First Nations would receive about \$185 million in direct payments over the course of the mine life: or about \$9 million per year.

If the price of copper and gold were to return to levels of just a couple years ago (\$4-per-pound of copper and \$1,500-per-ounce gold), the mineral tax generated by New Prosperity would be nearly \$1 billion, meaning First Nation participants would receive \$370 million or \$18 million each year, \$1.5 million per month.

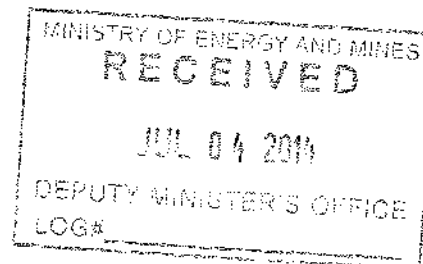
Certainly not every mine is capable of generating such wealth, but New Prosperity can, if given a reasonable chance to do so.

As always, if you would like to discuss this matter with me, I would be pleased to do so.

Sincerely,

TASEKO MINES LIMITED

Russell Hallbauer, P.Eng.
President & CEO



Opinion: First Nations, mining for change

Agreement would give new meaning to New Prosperity mine name

BY RUSSELL HALLBAUER, SPECIAL TO THE VANCOUVER SUN JUNE 9, 2014

Copyright

Russell Halbauer is president and CEO of Taseko Mines

Holding, Lea MEM:EX

From: Minister, MEM MEM:EX
Sent: Thursday, July 17, 2014 10:35 AM
To: s.22
Cc: Minister, ENV ENV:EX; Foster.MLA, Eric LASS:EX
Subject: New Prosperity Mine and Morrison Mine projects.

Ref: 84991

s.22

Thank you for your May 4, 2014 email regarding the New Prosperity Mine and Morrison Mine projects.

In February 2014, the Government of Canada announced it would not issue the federal authorizations necessary for Taseko Mines Limited's (Taseko) New Prosperity Mine project to proceed. Taseko has filed two judicial review applications regarding the fairness of the panel process and the federal decision, and this process is ongoing. Should Taseko be successful and eventually receive a project approval from the federal government, the project would still be subject to a provincial environmental assessment analysis and an exhaustive permitting process under the *Mines Act*. It is clear that the potential economic and social benefits for the local community are substantial, and the Province believes that identified environmental impacts can be adequately mitigated.

British Columbia did not appeal the December 2013 BC Supreme Court ruling on the Morrison copper-gold project decision. We felt it would be a better use of everyone's time and efforts to move forward than to continue to contest the matter legally. The BC Environmental Assessment Office's review process for the Morrison Mine project is currently ongoing.

The Province takes responsible resource development very seriously, and it is proud of its track record. British Columbia has several open pit copper-gold mines similar to the New Prosperity Mine project operating at socially and environmentally acceptable levels today.

Thank you, again, for writing.

Sincerely,

Bill Bennett
Minister of Energy and Mines

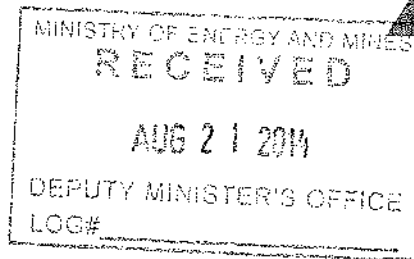


MMRP
Taseko Mines Limited
15th Floor, 1040 West Georgia St.
Vancouver, BC V6E 4H1
taseko mines.com

July 30, 2014

DOUG CAUL

Associate Deputy Minister and Executive Director
Environmental Assessment Office
PO Box 9426 Stn Prov Govt
Victoria BC V8W 9V1



MINISTRY OF ENERGY AND MINES	
TELEPHONE NUMBER	
1-800-955-5959	
URGENT REPLY <input type="checkbox"/>	WITH FILE <input checked="" type="checkbox"/>
RECEIVED	AUG 08 2014
FILE NO.	86576

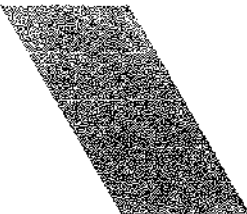
Dear Mr. Caul:

This letter is in response to Shelley Murphy's letter of July 14, 2014 and as follow up to my letter to you dated June 14 and our telephone conversation on July 17. As I said to yourself and Ms. Murphy in that call, we have a number of serious concerns regarding both the process and timing that is laid out in the July 14 letter.

Our primary concern is that we do not believe that there is any legitimate legal basis for EAO to further delay its decision on our amendment application pending the completion of the ongoing litigation respecting the federal panel report and governmental decisions. Our application for an amendment was made over three years ago. While EAO chose to coordinate its process with the federal review panel process, that has now occurred. The panel process is complete. In the litigation, Taseko is not asking the court to quash the panel report and remit the matter back to the panel for further consideration. In the circumstances, for EAO to refuse to exercise its own statutory responsibilities until that federal litigation is resolved is neither appropriate nor permissible and places our company in the difficult position of having to consider various options to compel a decision. EAO has the information it requires, it can consider the panel report, Taseko's responses to it (in particular our November 8 and 15, 2013 letters) and all relevant factors in rendering a decision.

As we previously advised, the issuance of an amended certificate could be of significant benefit in terms of addressing the outstanding federal issues. More specifically, conditions developed by EAO could be highly relevant for the federal government to consider if and when it reconsiders its original decision on the New Prosperity project (as a result of the litigation, or otherwise). And issuance of a provincial amendment would assist us in moving forward with provincial permitting applications which could again provide additional information and assurances respecting environmental matters that could assist a federal reconsideration if and when undertaken.

Put simply, there is no basis for EAO to refuse to proceed with the application and there are significant prejudices that would happen to our company if it did so. For all these reasons, we strongly encourage you to consult your legal counsel on this matter, revisit your position, and advise us accordingly. If the Executive Director is not prepared to do so, then we will ask that the decision be made by Minister Polak, in a timely manner, as the legislation clearly gives her this authority.



With respect to the extension request, we are concerned about the length of time and complex process that is being proposed. The EAO Certificate Extension Policy you provided on June 6, 2014 indicates a normal timeline for review of straightforward extensions to be two weeks. Our extension requested couldn't be more straightforward; the Project has not substantially started, and all environmental impacts of the revised project have been extensively canvassed in a federal review panel process. Further, the project is in an area where the Supreme Court of Canada has conclusively determined the Tsilhqot'in Nation does not hold aboriginal title.

Yet the enclosure you provided and related questions makes it sounds as though EAO knows nothing about our proposed project. In fact, EAO already has all the information relevant to the questions you have posed. Our plans for the project are very clear and are documented in tens of thousands of pages of material that comprise the panel record (which EAO has and which aboriginal groups were part of). The panel's findings are also well known, and while we take exception to certain aspects of them, the fact remains that there is simply no potential for the New Prosperity project to have more significant adverse effects than the original project, which two provincial ministers had already held to be justified in the circumstances. Put simply, if Ministers of the Crown felt the project was justified with the complete loss of Fish Lake, how is it possible that EAO could be concerned about *lesser* potential impacts for the purposes of a routine certificate extension? For all these reasons, we question why we are being required to respond to these questions at all. That said, because you appear to consider that necessary, and because the task is not large, we attach in appendix 1 answers to the questions that you have posed.

In general, we are struggling to understand why, at every turn in its dealings with our company, the EAO consistently adopts the most cautious, complex and laborious procedural steps one could possibly conceive of. It seems fundamentally inconsistent with the streamlining directions set out in the Premier's mandate letter to the Minister, and we are left with no choice but to wonder whether the EAO is consciously delaying things on our project simply on account of First Nation opposition. We genuinely hope that is not the case, and we ask, once again, that you move forward to conclude these processes in the weeks – not months – ahead.

Yours truly,
Taseko Mines Limited



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

Cc: Honourable Mary Polak, Minister of Environment
Honourable Bill Bennett, Minister of Energy and Mines
Wes Shoemaker, Deputy Minister, Ministry of Environment
Dave Nikolejsin, Deputy Minister, Ministry of Energy and Mines
Shelley Murphy, Executive Project Director, Environmental Assessment Office



Appendix 1

Question: 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)?

Response: The federal review panel found the New Prosperity project would have significant adverse effects in respect of fish and fish habitat, wetland and riparian ecosystems, Tsilhqot'in cultural heritage, archaeological and historical resources, and Tsilhqot'in current use of land and resources for traditional purposes. These impacts are *less* than the impacts of the original project which provincial ministers already approved, which would have resulted in the complete loss of Fish Lake. The review panel findings are a matter of public record. While Taseko believes the panel erred and violated certain legal principles in making these findings, the fact remains that even on the basis of those findings the project has less adverse environmental effects than the one provincial ministers already considered justified and approved.

Question: 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:

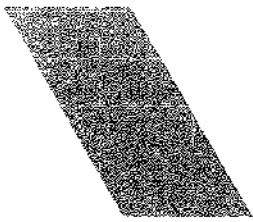
- i. new scientific and technical information,
- ii. physical changes to the airshed, watershed or landscape,
- iii. previously unknown or undetected effects, or,
- iv. new information respecting First Nations interests.

Response: There have been changes to the original project design to address the significant adverse effects found by both the provincial and the federal governments, and EAO is well aware of these given the certificate amendment application that has been outstanding for three years. The principal changes are the relocation of the waste rock and overburden storage and the placement of the tailings storage facility two km away from Fish Lake (which will now no longer be drained). These changes reduce the impact of the New Prosperity project on fish and fish habitat, on aboriginal interests, and on archaeological resources.

Question: Are there adverse economic or social effects if the certificate is not extended?

Response: Yes. Failure to extend the certificate would undermine the potential for the project as proposed to be constructed and all resulting social and economic benefits to be achieved, as construction cannot begin at this time on account of federal issues and outstanding provincial certificate amendment process.

The social and economic benefits of the project are spelled out on pages 144 to 146 of the EAO's original assessment report for the Prosperity project. The benefits of New Prosperity are greater than the benefits noted in that report.



Failure to extend the certificate could also undermine investor confidence in the BC mining sector generally. To our knowledge, EAO has never rejected an application to extend a certificate, which as you know is expressly contemplated by section 18 of the Act.

Question: If material changes have developed or occurred, would the imposition of new or revised mitigation measures be justified?


Response: New and revised mitigation measures are already incorporated in the New Prosperity design. Further, Taseko has accepted all of the recommendations by both Federal Panels, both for Prosperity and New Prosperity. If or to the extent EAO believes any additional mitigation measures are required, that can be addressed through the ongoing amendment application and are not required in any way as part of a certificate extension. During the panel process Taseko proposed the following conditions, which the panel did not take up, but which we remain willing to include as part of a certificate.

1. *Revise water balance modeling to demonstrate how post closure recirculation can be avoided or minimized, and provide results to MEM prior to receiving a Mines Act permit to operate the mine.*
2. *Develop a Water Monitoring and Adaptive Management Plan that addresses:*
 - *water quality monitoring parameters (e.g. locations, frequency, substances to be tested for)*
 - *water levels in Fish Lake, flows into and out of fish Lake and flow rates within spawning channels*
 - *fish health and productivity*
 - *submergence of PAG rock in the TSF*
 - *groundwater, seepage and seepage interception*
 - *spawning habitat mitigation flows*
 - *determination of threshold levels of action for the parameters being monitored*
 - *recirculation system design, pump monitoring, backup / redundancy plans and emergency response measures.*

The plan would be developed to the satisfaction of MOE and MEM, and developed in consultation with DFO, EC and First Nations. The Plan would also specify the process for engaging those agencies and First Nations during the implementation of the Plan.

3. *Ensure Taseko's operations comply with BC Water Quality Guidelines except if / where MOE has approved another limit for specified substances and water bodies pursuant to its April 2013 policy entitled "Guidance for the Derivation and Application of Water Quality Objectives in British Columbia" http://www.env.gov.bc.ca/wat/wq/pdf/wqo_2013.pdf*

4. *Install a hypolimnetic aeration system (designed in consultation with and to the satisfaction of DFO) in Fish Lake before the start of construction to first reduce the current*



seasonal eutrophication and then to mitigate against further eutrophication once recirculation begins.

5. *Prior to receiving a Mines Act permit and an Environmental Management Act permit to operate the mine:*

- (a) Assess available water quality treatment systems (including but not limited to reverse osmosis systems) and identify a preferred system,*
- (b) Confirm / revise water quality modeling with specific reference to the proposed water treatment system, and*
- (c) Document how procurement, delivery, installation and operation of the system would be undertaken in accordance with the overall Water Monitoring and Adaptive Management Plan.*

6. *Prior to receiving a Mines Act permit to operate the mine, undertake additional geotechnical site investigations in consultation with MEM:*

- (a) To further define the location and extent of the faults north of Fish Lake and confirm / refine related assessment of hydraulic conductivity.*
- (b) To obtain more detailed information regarding till thickness throughout the basin of the TSF.*
- (c) To perform additional pump tests between Fish Lake and the proposed pit and in the downstream areas of the tailings dams.*

Question: Are the nature and scale of possible new mitigation measures sufficient to warrant reconstituting the working group or seeking additional public comments?

Response: No. They have already been through an exhaustive and public federal environmental process and there is absolutely no need to reconvene a working group or public process to duplicate consideration of the very same issues.

Question: Has a substantial start of the project been delayed or prevented by reason of third party actions beyond the control of the proponent?

Response: Yes – it has been delayed by the federal decision to refuse approval (which is subject to legal challenge) and the still outstanding decision the by executive director / minister on Taseko's application to amend the existing certificate.

Question: How will this proposed extension impact permitting?

Response: It will allow Taskeo to seek, and allow provincial agencies to issues permits that would be necessary for the project to move forward (if and as federal issues are addressed). This would include permits and permit conditions that will provide even further environmental knowledge and protection at the permitting stage.

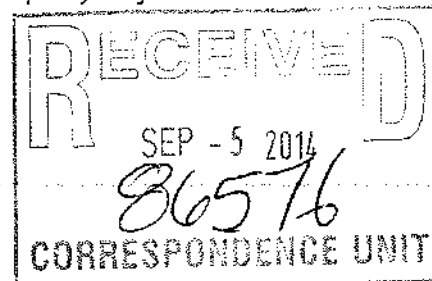
Holding, Lea MEM:EX

MHRD

From: Minister, MEM MEM:EX
Sent: Friday, September 5, 2014 2:55 PM
To: MEM Correspondence MEM:EX
Subject: FW: Response letter to Taseko Mines Limited re: Prosperity Project
Attachments: 104456_Response to Taseko_11Aug14.docx.pdf

Info/File

From: Gajowski, Leigh Anne EAO:EX
Sent: Monday, August 11, 2014 2:56 PM
To: 'JMcManus@tasekomines.com'
Cc: Minister, ENV ENV:EX; Minister, MEM MEM:EX; Shoemaker, Wes ENV:EX; Nikolejsin, Dave MEM:EX; Caul, Doug D EAO:EX; Murphy, Shelley EAO:EX
Subject: Response letter to Taseko Mines Limited re: Prosperity Project



Xref 82899

Good afternoon Mr. McManus,

Please find attached a letter from Shelley Murphy in response to your letter dated July 30, 2014 to Doug Caul concerning the Environmental Assessment Certificate extension and amendment request for the Prosperity Project.

Original to follow via regular Canada Post.

Thank you and regards,

Leigh-Anne Gajowski | Administrative Assistant
Environmental Assessment Office
PO Box 9426, Victoria BC, V8W 9V1
Tel: 250.387-2563 | Fax: 250.387-2208

Please consider the environment before printing this message.



File: 30200-25/PROS-19-05-06

Ref: 104456

August 11, 2014

John McManus
Vice President Operations
Taseko Mines Limited
15 Floor – 1040 West Georgia St
Vancouver BC V6E 4H1

Dear Mr. McManus:

Thank you for your letter of July 30, 2014 which sets out Taseko Mines Limited's (Taseko) views and concerns with the Environmental Assessment Office's (EAO's) proposed approach to Taseko's Environmental Assessment Certificate extension and amendment request. Doug Caul has asked me to respond on his behalf. Thank you also for Taseko's responses to the questions provided in my letter of July 14, 2014. They will be useful as EAO administers both processes.

I appreciate hearing the concerns you raise in your letter. EAO will consider your comments and concerns and undertake further follow up within the provincial government as necessary. We hope to be able to provide a more detailed response by early September 2014.

Yours truly,

Shelley Murphy
Executive Project Director

cc: Honourable Mary Polak, Minister
Ministry of Environment

.../2

Environmental
Assessment
Office

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

Location:
1st & 2nd Fl – 836 Yates Street
Victoria BC V8W 1L8

Honourable Bill Bennett, Minister
Ministry of Energy and Mines

Wes Shoemaker, Deputy Minister
Ministry of Environment

Dave Nikolejsin, Deputy Minister
Ministry of Energy and Mines

Doug Caul, Associate Deputy Minister
Environmental Assessment Office

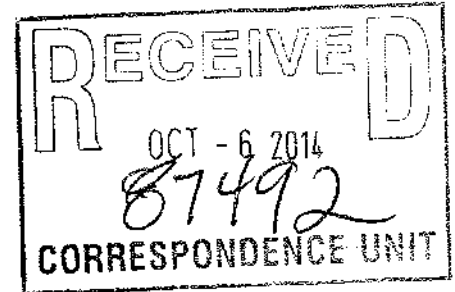
Holding, Lea MEM:EX

MHRD

From: Minister, MEM MEM:EX
Sent: Saturday, October 4, 2014 2:38 PM
To: MEM Correspondence MEM:EX
Subject: FW: Letter from Chief Alphonse and Chief William re: TML Request for Extension of the deadline for Certificate M09-02 (Prosperity Mine)
Attachments: 2014 08 25 Letter from C Alphonse and C William to EAO ED re TML Certificate Extension.pdf; 2014 08 25 JPL - SM re TML Application for Prosperity 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

Importance: High

Info/File



From: J.P. Laplante [<mailto:jlaplante@tsilhqotin.ca>]
Sent: Monday, August 25, 2014 11:30 AM
To: Minister, MEM MEM:EX
Cc: Bennett.MLA, Bill LASS:EX; Crystal Verhaeghe; Jay Nelson (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 Bennett,

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 4th Ave North, Williams Lake BC V2G 4T4
Tel: 250-392-3918
Fax: 250-398-5798
Email: jlaplante@tsilhqotin.ca
Web: www.teztanbiny.ca
Web: www.tsilhqotin.ca

From: J.P. Laplante
Sent: August-25-14 11:17 AM
To: Doug Caul (Doug.Caul@gov.bc.ca)
Cc: Jay Nelson (jay@jaynelsonlaw.com); Crystal Verhaeghe (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, Xení 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 4th Ave North, Williams Lake BC V2G 4T4

Tel: 250-392-3918

Fax: 250-398-5798

Email: jlaplante@tsilhqotin.ca

Web: www.teztanbiny.ca

Web: www.tsilhqotin.ca



TŚILHQOT'IN NATIONAL GOVERNMENT

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

August 25, 2014

Doug Caul
Associate Deputy Minister & Executive Director
BC Environmental Assessment Office
PO Box 9426 Stn Prov Govt
Victoria BC
V8W 9V1
Email: Doug.Caul@gov.bc.ca

Via E-mail

Dear Mr. Caul,

Re: TML Request for Extension of the deadline for Certificate M09-02 (Prosperity Mine)

By letter dated July 15, 2014, the BC Environmental Assessment Office (EAO) advised us that Taseko Mines Limited has applied to extend its Environmental Assessment Certificate (M09-02) (the "Certificate") for the "Prosperity" mine.

We write in response to the EAO's request for comments. We have also enclosed a detailed submission from the Tsilhqot'in National Government to Shelley Murphy.

There are absolutely no grounds to grant this extension. Extending the Certificate for a project that has since been scathingly assessed by independent panels, and roundly rejected by the Federal Government – not once, but *twice* – would completely contradict the EAO's mandate and responsibilities.

We oppose any consideration or granting of the extension, especially given the massive public record establishing significant adverse and *immitigable* impacts of both versions of the mine project on Tsilhqot'in culture, heritage and Aboriginal rights – in one of the few places in Canada subject to *proven* Aboriginal rights.

This substantial record was generated by the federal panel process, *after* the Certificate issued, and as such was not considered by the EAO or the Minister when the original Certificate was granted in 2010. The same is true of the devastating environmental impacts identified by both federal review panels, after the Certificate issued, based on a much fuller record.

In these circumstances, the only responsible decision is for the EAO to refuse to extend the Certificate. The project design has changed considerably since the Certificate was issued. Volumes of additional information, and the findings of independent experts, call into question the EAO's original assessment.

If this project is ever to be considered by the EAO or the Province (and we say that day will never come given the clear federal rejection), then there must be a fresh environmental assessment, based on the final design, with all available information.

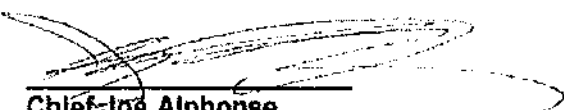
In light of the disastrous Mount Polley tailings breach, the Province should be making all efforts to restore faith in its regulatory and review processes. At this juncture, extending the Certificate for a project that the Federal Government has subsequently rejected, and rejected again, would be an affront to environmental assessment and call into question the Province's stated commitment to responsible mining.


This Province urgently needs leadership and mining reform, not the same pattern that led to the disaster at Mount Polley. This is not the time to cut corners on environmental assessment.

This is an opportunity for the EAO and the Province to demonstrate leadership and heightened vigilance. It is an opportunity to take a first step in restoring Tsilhqot'in faith in B.C.'s environmental assessment process.

There is only one responsible decision and that is to reject this application for a Certificate extension.

In Governance,


Chief Joe Alphonse
Tl'etinqox-t'in, TNG Tribal Chairman


Nitsil'in (Chief Roger) William
Xeni Gwet'in First Nations Government
Vice-Tribal Chair, TNG

Attachment: Technical Submission from TNG's Mining, Oil and Gas Manager

cc. Tsilhqot'in Chiefs
First Nations Leadership Council
The Honourable Christy Clark, Premier
The Honourable Mary Polak, Minister of Environment
The Honourable John Rustad, Minister of Aboriginal Relations
The Honourable Bill Bennett, Minister of Energy and Mines
Shelley Murphy, Executive Project Director, BC EAO

File No. T-744-14
File No. T-1977-13

FEDERAL COURT

BETWEEN:

TASEKO MINES LIMITED

APPLICANT

AND:

**THE MINISTER OF THE ENVIRONMENT and
THE ATTORNEY GENERAL OF CANADA and
THE TSILHQOT'IN NATIONAL GOVERNMENT and
JOEY ALPHONSE, on his own behalf and
on behalf of all other members of the Tsilhqot'in Nation**

RESPONDENTS

AND:

**THE MINING ASSOCIATION OF CANADA,
THE MINING ASSOCIATION OF BRITISH COLUMBIA
THE MINING SUPPLIERS ASSOCIATION OF BRITISH COLUMBIA
THE ASSOCIATION FOR MINERAL EXPLORATION, BRITISH
COLUMBIA
and MININGWATCH CANADA**

INTERVENERS

TAKE NOTICE THAT the Applicant, Taseko Mines Limited, will make a motion to the Court on a date to be set pursuant to Rule 35(2)(b), for an estimated duration of one day, at the Federal Court of Canada, 701 West Georgia Street, Vancouver, British Columbia.

THE MOTION IS FOR AN ORDER:

1. Converting the proceedings in Court File No. T-744-14 and T-1977-13 into a consolidated action;

2. Granting leave to the applicant, Taseko Mines Limited ("Taseko") to amend its pleadings and deliver the consolidated statement of claim, without interlineations, attached in draft form as Schedule "A" within fifteen (15) days of such Order; and
3. Such further other relief as counsel may advise and this Honourable Court permit.

THE GROUNDS FOR THE MOTION ARE:

4. Court File No. T-1977-13 (the "Panel Review") is an application for judicial review commenced by Taseko in respect of a report dated October 31, 2013 (the "Report"), issued by the federal review panel (the "Panel") established by the Minister of the Environment to conduct an environmental assessment of the New Prosperity Gold-Copper Mine Project (the "Project").
5. The notice of application in the Panel Review was filed on November 29, 2013 and amended pursuant to the order of Justice Barnes on February 13, 2014.
6. The amended notice of application seeks, amongst other relief, a declaration that certain factual findings of the Panel related to seepage from the Project's proposed tailings storage facility be quashed or set aside. The amended notice of application further 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, and through inappropriate or excessive reliance on Panel secretariat staff to draft the Report.
7. Court File No. T-744-14 (the "Decision Review") is an application for judicial review commenced by Taseko in respect of decisions of the Minister of the Environment and the Governor in Council concerning the Project communicated in a decision statement dated February 25, 2014 issued by the Minister.

8. The notice of application in the Decision Review was filed on March 26, 2014.
9. The notice of application seeks, amongst other relief, orders quashing the decision of the Minister under the *Canadian Environmental Assessment Act 2012* ("CEAA 2012") that the Project is likely to cause significant adverse environmental effects and the decision of the Governor in Council that those significant adverse environmental effects are not justified in the circumstances.
10. The notice of application further seeks a declaration that certain provisions of *CEAA 2012* are, in whole or in part, *ultra vires* the federal government's legislative powers under s. 91 of the *Constitution Act, 1867* and thus of no force and effect, or in the alternative, must be read down or considered constitutionally inapplicable. Taseko served and filed a notice of constitutional question on April 29, 2014.
11. By order made June 17, 2014 by Prothonotary Lafrenière, Case Management Judge for both the Panel Review and the Decision Review, the two applications are to be heard consecutively by the same judge.
12. Taseko relies on s. 18.4(2) of the *Federal Courts Act* and Rules 105(a) and 201 of the *Federal Rules of Court*.

Conversion

13. Section 18.4(2) of the *Federal Courts Act* provides "The Federal Court may, if it considers it appropriate, direct that an application for judicial review be treated and proceeded with as an action".
14. Courts have recognized that conversion of a judicial review into an action is appropriate when it is necessary to address the remedial inadequacies of judicial review, such as the award of damages, and when the facts allowing

the court to make a decision cannot be satisfactorily established through affidavit evidence alone.

15. Both concerns arise here: Taseko seeks to amend its pleadings to claim damages, which are generally not available in judicial review proceedings. In addition, the few documents that have been provided through the Rule 317 requests indicate a need for a more thorough disclosure of documents than judicial review would permit in order to ensure that the judge who hears the Panel Review and Decision Review claims has access to a full evidentiary record.

Consolidation

16. Rule 105(a) *Federal Rules of Court* provides that "The Court may order, in respect of two or more proceedings, that they be consolidated, heard together or heard one immediately after the other".
17. Consolidation is appropriate where, as here, the parties are represented by the same counsel and the proceedings are at similar stages and involve common legal and factual issues as well as parallel evidence.
18. The respondents would not suffer any prejudice or injustice by consolidation of the proceedings; indeed both respondents supported hearing the Panel Review and Decision Review consecutively.

Amendment

19. Section 18.4(2) of the *Federal Courts Act* places no barrier to adding new claims, or indeed new parties, to a judicial review proceeding that has been converted into an action.
20. The *Federal Courts Rules* as to amendment are extremely generous; in particular, Rule 201 provides that an amendment may be made "notwithstanding that the effect of the amendment will be to add a new cause of action, if the new cause of action arises out of substantially the same facts

as a cause of action in respect of which the party seeking the amendment has already claimed relief in the action”.

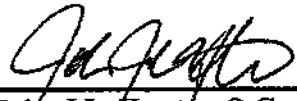
21. Here, the amendments proposed by Taseko, set out in the proposed draft Consolidated Statement of Claim attached as Schedule “A” filed with this motion, are based substantially on the same facts already pleaded in the Panel Review and Decision Review. The Respondents would suffer no prejudice from the amendments.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

22. Amended Notice of Application of Taseko in Federal Court File No. T-1977-13 dated February 19, 2014;
23. Notice of Application of Taseko in Federal Court File No. T-744-14 dated March 26, 2014;
24. Order of Prothonotary Lafrenière dated March 13, 2014;
25. Order and Reasons for Order of Mr. Justice Harrington dated April 17, 2014;
26. Written Representations of the Respondents, the Attorney General of Canada on behalf of the Minister of the Environment (Motion seeking to consolidate Court File No.: T-1977-13 and Court File No.: T-744-14), dated June 5, 2014;
27. Written Representations of the Respondents, Tsilhqot’in National Government and Joey Alphonse (Motion seeking to consolidate Court File No.: T-1977-13 and Court File No.: T-744-14), dated June 13, 2014;
28. Affidavit #4 of Christina Barrie made April 1, 2014;
29. Affidavit #1 of Brian Battison made May 5, 2014;
30. Affidavit #3 of Irene Klimos made January 30, 2014;

31. Affidavit #4 of Irene Klimos made February 7, 2014;
32. Affidavit #1 of Claudia Pace made March 4, 2014
33. Affidavit #1 of Katie Vickers made May 5, 2014;
34. Affidavit #2 of Katie Vickers made August 20, 2014;
35. Such further and other material as counsel for Taseko may advise and this Honourable Court permit.

DATED this 21st day of August, 2014



John J.L. Hunter, Q.C.
Hunter Litigation Chambers
Suite 2100- 1040 West Georgia Street
Vancouver, BC V6E 4H1

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Solicitor for the Respondents

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Schedule "A"

File No. T-744-14

File No. T-1977-13

FEDERAL COURT

BETWEEN:

TASEKO MINES LIMITED

PLAINTIFF

AND:

**THE MINISTER OF THE ENVIRONMENT and
THE ATTORNEY GENERAL OF CANADA**

DEFENDANTS

CONSOLIDATED STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the Federal Courts Rules serve it on the appellant's solicitor or, where the appellant does not have a solicitor, serve it on the appellant, and file it, with proof of service, at a local office of this Court, WITHIN 30 DAYS after this statement of claim is served on you, if you are served within Canada.

If you are served in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period for serving and filing your statement of defence is sixty days.

Copies of the Federal Court Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

DATED this day of , 2014

Issued by: _____
(Registry Officer)

Address of local office:
Federal Court Registry
Pacific Centre
P.O. Box 10065
701 West Georgia Street
Vancouver, BC V7Y 1B6

TO: William F. Pentney
Deputy Attorney General of Canada

Per: Tim Timberg
Department of Justice
900-840 Howe Street
Vancouver, BC V6Z 2S9

CLAIM

RELIEF CLAIMED

1. The plaintiff, Taseko Mines Limited ("Taseko") claims:
 - a. A declaration that ss. 5, 6 and 7 of the *Canadian Environmental Assessment Act, 2012* ("CEAA 2012") are, in whole or in part, *ultra vires* the federal government's legislative powers under s. 91 of the *Constitution Act, 1867* and thus of no force and effect, or in the alternative, must be read down or considered constitutionally inapplicable;
 - b. A declaration that the environmental assessment of the New Prosperity Gold-Copper Mine Project (the "Project") carried out by the Federal Review Panel established by the Minister of the Environment (the "Panel") and the decisions of the Minister of the Environment and the Governor in Council under *CEAA 2012* are nullities in whole or in part;
 - c. In addition or in the alternative, 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, and through excessive reliance on Panel secretariat staff to draft the Panel's report;
 - d. In addition or in the alternative, 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 tailings storage facility;
 - ii. the Panel's decision to accept Natural Resources Canada's ("NRCan") upper bound estimate as the expected seepage rate

from the tailings storage facility;

- 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;
- e. In addition or in the alternative, an order quashing the decisions of the Minister under ss. 52(1)(a) and (b) of *CEAA 2012* that the Project is likely to cause significant adverse environmental effects, and referring those decisions back to the Minister for reconsideration in accordance with the directions of the Court;
- f. In addition or in the alternative, an order quashing the decision of the Governor in Council that the significant adverse environmental effects that the Project is likely to cause are not justified in the circumstances, and referring that decision back to the Governor in Council for reconsideration in accordance with the directions of the Court;
- g. General, aggravated and punitive damages;
- h. Costs; and
- i. Such further and other relief as to this Honourable Court may seem just.

PARTIES

- 2. Taseko is a British Columbia company with an address for service of 2100-1040 West Georgia Street, Vancouver, British Columbia.
- 3. The Defendants, the Attorney General of Canada and the Minister of Environment are named as representatives of the Minister's Parliamentary Secretary, the President of the Canadian Environmental Assessment Agency ("CEAA") and Deputy Ministers from CEAA, the Department of Fisheries and Oceans, Environment Canada, Natural Resources Canada, Aboriginal and

Northern Development Canada and Transport Canada.

FACTS

4. This claim concerns the report dated October 31, 2013 issued by the Panel (the "Report"), concerning an environmental assessment of the proposal by Taseko to construct and operate the Project, and the decisions of the Minister and the Governor in Council communicated in a decision statement dated February 25, 2014 issued by the Minister (the "Decision Statement").

A. The Project

5. 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.
6. The Project is located entirely within the Province of British Columbia. The mineral resources to which the Project relates are owned by the Crown in Right of British Columbia and Taseko holds interests in them in accordance with tenures duly established under the *Mineral Tenure Act* (British Columbia).
7. The Project is subject to regulation under the *Environmental Assessment Act* (British Columbia), the *Mines Act* (British Columbia), the *Environmental Management Act* (British Columbia), and various other provincial laws.
8. Taseko has spent in excess of \$130 million to date developing the Project.
9. A prior version of the Project has already been the subject of a provincial environmental assessment and was approved by the Province in 2010.
10. The prior version of the Project was, however, rejected by the federal government in 2010 principally on the basis that it would have involved the draining of Fish Lake. At the time, the federal government invited Taseko to

resubmit an alternate project plan. Taseko did so in 2011 and the new project plan, which has added costs of over \$300 million, does not involve the draining of Fish Lake.

11. The environmental assessment certificate issued in 2010 by the Province of British Columbia is currently the subject of an amendment application reflecting the new project plan.

B. The Panel

12. 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 established under the *Canadian Environmental Assessment Act*. With the promulgation of *CEAA 2012*, the assessment continued under *CEAA 2012*.
13. In the absence of referral to a federal review panel, environmental assessments are conducted by CEAA staff. The majority of environmental assessments are conducted by CEAA staff and only a small number of the environmental assessments currently in progress are conducted by an independent review panel.
14. The Panel's terms of reference were issued on May 9, 2012 and amended August 3, 2012 following the coming into force of *CEAA 2012* (the "Amended Terms of Reference"). Under the Amended Terms of Reference, the Panel was required to consider, among other things, the environmental effects of the Project and submit a report to the Minister.
15. The Amended Terms of Reference say the following with respect to the composition of the Panel:

The Panel

- 4.1. After consulting with the responsible authorities, the Minister of Environment will appoint members of the Panel, including the

chairperson. The Panel shall be composed of three members, each of whom shall be unbiased, free from any conflict of interest relative to the Project and shall have knowledge or experience relevant to the anticipated environmental effects of the Project. In the event that a Panel member resigns or is unable to continue to work, the remaining members shall constitute the Panel unless the Minister determines otherwise. In such circumstances, the Minister may choose to replace the Panel member.

16. Section 106 of *CEAA 2012* directs the CEAA to provide "support" to a review panel. At some point, a secretariat was established by CEAA for the Panel (the "Panel Secretariat").
17. The Amended Terms of Reference provide the following in respect of the Panel Secretariat (emphasis added):

The Secretariat

4.5. Administrative, technical, and procedural support requested by the Panel shall be provided by a Secretariat. The Secretariat is comprised of staff from the Agency. The Secretariat will support the Panel and will be structured so as to allow the Panel to conduct its review in an efficient and cost-effective manner.

EIS [Environmental Impact Statement] Preparation and Submission

...

4.8. Staff from the Agency who are assigned to the Secretariat referred to in article 4.5 shall not be involved in the Agency's review of the draft EIS.

18. No clear indication was given to Taseko at any relevant time as to exactly who was on the Panel Secretariat or how many members there were, although it was apparent it included CEAA staff.

C. *The public hearing process*

19. The Panel commenced public hearings on July 22, 2013 and 22 days of hearings were held in various communities.

20. Several members of the Panel Secretariat were involved in the public hearings, providing logistical and administrative support.
21. In its submissions before and during the Panel process, Taseko proposed various mitigation measures with respect to potential adverse environmental effects.
22. In particular, the Project description and other information provided by Taseko in the environmental assessment process incorporated into the tailings storage facility (the "TSF") design a low permeability till liner throughout the TSF basin. It was on the basis of this design that Taseko's expert consultants, Knight Piésold and BCG Engineering & Consulting, developed their modeling for anticipated seepage from the TSF, which was presented to the Panel.
23. During the hearings, Taseko also provided evidence to the Panel that, if the Project was to proceed, further testing and assessment work would be carried out during the subsequent detailed design and permitting phases to verify the seepage rates it projected and that the specifications of the liner would be adjusted as needed using well established and proven methodologies to achieve seepage rates within the projected parameters.
24. The Panel engaged an independent expert, Dr. Leslie Smith, to review the seepage modeling provided by Taseko's experts. Dr. Smith provided written and oral submissions to the Panel that the framework used by Taseko to evaluate seepage of process (pore) water from the TSF followed accepted practice.
25. NRCan provided written and oral submissions to the Panel relating to model seepage rates from the TSF that differed from Taseko's. NRCan's submissions were based on a model of a TSF design that did not include a low permeability till liner throughout the TSF basin and which overlooked the fact that the TSF was designed to facilitate seepage through its embankments to

seepage collection facilities.

26. The hearings closed on August 23, 2013.

D. Events between close of hearings and release of the Report

27. Between the close of hearing on August 23, 2013 and the release of the Report on October 31, 2013, the Minister and individuals involved in advising the Minister and the Governor in Council in respect of their decisions under *CEAA 2012* met privately with parties opposed to the Project.

28. On October 8, 2013, the Minister met privately with Chief Roger William of the Xeni Gwet'in First Nation which is a member of the Tsilhqot'in National Government (the "TNG"), along with other representatives of the TNG and other parties opposed to the Project. The Project was discussed at that meeting but Taseko was not present.

29. On October 9, 2013, Chief William and other parties opposed to the Project had similar meetings with five Deputy Ministers: Michael Wernick of Aboriginal Affairs and Northern Development Canada; Bob Hamilton of Environment Canada; Matthew King of Fisheries and Oceans Canada; Louis Levesque of Transport Canada; and Serge Dupont of Natural Resources Canada. He also met with Ron Hallman, the President of CEAA. Some or all of these individuals were involved in advising the Minister and the Governor in Council in respect of their decisions regarding the Project under *CEAA 2012*. Taseko was not present at any of these meetings.

30. During this same period – during which the Report was drafted – the Panel Secretariat recorded 3,000 hours of staff time. 3,000 hours represents more than double the time billed by the Panel during the same period.

E. The Report

31. On October 31, 2013, the Panel issued the Report regarding the Project.

32. In the Report, the Panel concluded significant adverse environmental effects were not likely in respect of approximately 33 areas (provided appropriate mitigation measures were successfully implemented). These included positive findings regarding impacts on human health, migratory birds, salmon and salmon habitat, wildlife, species at risk, navigation, aboriginal tourism opportunities, trapper licences, old forest and grassland ecosystems and air quality.

33. In the Report, the Panel found significant adverse environmental effects were likely in respect of:

- a. water quality in Fish Lake and Wasp Lake;
- b. fish and fish habitat in Fish Lake, wetlands and riparian ecosystems; and
- c. Tsilhqot'in current use of lands for traditional purposes, cultural heritage and archaeological/historical resources.

34. The Panel's findings respecting the significant adverse environmental effects rest in whole or in part on the Panel's findings related to the seepage of water from the Project's TSF and the related water quality impacts on and use of Fish Lake and other fish habitat.

35. Following its findings about anticipated seepage rates from the TSF to Fish Lake and Wasp Lake, the Panel went on to conclude that the concentration of water quality variables in Fish Lake and Wasp Lake would exceed provincial and federal water quality guidelines and thus would constitute significant adverse environmental effects

F. Events between the release of the Report and the Decision Statement

36. Taseko and the TNG both made submissions following the release of the Report and before the Minister and Governor in Council rendered their decisions.

37. On November 4, 2013, counsel for Taseko wrote to the Minister, with copy to

CEAA, advising of forthcoming submissions about the Report and potential mitigation measures the Minister should consider when deciding under s. 52 of *CEAA 2012* whether the Project was likely to cause significant adverse environmental effects.

38. On November 8, 2013, Taseko wrote to the Minister to address the matters set out above. Among other things, the letter stated:

If or to the extent any of those consultations [between government officials and aboriginal groups] result in the government of Canada being aware of any information or holding any positions that could adversely affect Taseko's interests, we believe administrative law principles require that we be so advised and afforded an opportunity to make representations before any decisions are made.

39. On November 13, 2013, the Vice-President, Operations of CEAA, Yves Leboeuf, wrote to Taseko and its legal counsel requesting submissions on certain technical matters contained in the Report.
40. On November 15, 2013, Taseko responded to CEAA's November 13, 2013 request with information that was specifically in response to Mr. Leboeuf's request, as well as with a copy of the November 8, 2013 letter.
41. The TNG was copied on the November 15, 2013 letter from Taseko to Mr. Leboeuf. On November 21, 2013, the TNG made written submissions to Ron Hallman, the President of CEAA.
42. On or around January 9, 2014, TNG delivered a 59-page written submission to the Minister in response to the Report. Taseko was not advised of the TNG's written submission to the Minister and was given no opportunity to respond.
43. Just two weeks before the Decision Statement was issued, one or more members of the Governor in Council met privately with parties opposed to the Project.
44. On February 12, 2014, Chief William, Grand Chief Stewart Phillip of the

Union of British Columbia Indian Chiefs (present by phone), and other TNG officials met with Deputy Ministers from CEAA, the Department of Fisheries and Oceans, Environment Canada, Natural Resources Canada, Aboriginal and Northern Development Canada, and Transport Canada. Taseko was not invited and was not present.

45. On February 13, 2014, Chief Roger William, JP Laplante (TNG Mining, Oil & Gas Manager), Jay Nelson (legal counsel for the TNG), Joey Alphonse (Tribal Chair of the TNG), Shawn Atleo (Assembly of First Nations National Chief), and other representatives of parties that held interested party status before the Panel and were opposed to the Project, met with Dr. Colin Carrie, the Parliamentary Secretary to the Minister of the Environment and a Conservative Member of Parliament. Taseko was not invited and was not present.
46. The Project was discussed at the meetings on February 12 and 13, 2014, but Taseko was not advised of the submissions or information presented by or on behalf of the TNG and others in those meetings and was given no opportunity to respond to those submissions or information.
47. Taseko had a legitimate expectation that its November 15, 2013 response to Mr. Lebeouf would be considered by the Minister before she made her decision under section 52 of *CEAA 2012*.
48. Taseko also had a legitimate expectation that if third-party representations were made to the Minister or her staff and advisors after the close of the Panel hearings, then the Minister would advise Taseko of those submissions and afford Taseko an opportunity to make response submissions, before making her decision under section 52 of *CEAA 2012*.
49. Taseko similarly had a legitimate expectation that if third-party representations were made to the Governor in Council, its members, or staff and advisors after the close of the Panel hearings, then the Governor in

Council would advise Taseko of those submissions and afford Taseko an opportunity to make response submissions, before making its decision under s. 52 of *CEAA 2012*.

G. The Decision Statement

50. On February 26, 2014, a decision statement dated February 25, 2014 was communicated to Taseko by the Minister. The Decision Statement contains the following decisions of the Minister:

In accordance with paragraphs 52(1)(a) and (b) of *CEAA 2012*, I have decided, after considering the report of the Review Panel on the New Prosperity Gold-Copper Mine Project and the implementation of mitigation measures that I considered appropriate, that the Designated Project:

- is likely to cause significant adverse environmental effects referred to in subsection 5(1) of *CEAA 2012*; and
- is likely to cause significant adverse environmental effects referred to in subsection 5(2) of *CEAA 2012*.

51. The Decision Statement does not state what significant adverse effects the Minister found were likely to occur or what mitigation measures the Minister considered. It does not contain any reasons for the foregoing conclusions of the Minister. It does not indicate that she considered Taseko's November 15, 2013 response to Mr. Lebeouf's request on behalf of *CEAA* regarding technical matters contained in the Report.

52. Pursuant to s. 52(2) of *CEAA 2012*, the Minister was, after her decision, required to refer the matter to the Governor in Council to determine whether the significant adverse environmental effects she found were justified in the circumstances.

53. The Decision Statement indicates the following decision of the Governor in Council (emphasis in original):

In accordance with paragraph 52(4) of *CEAA 2012*, the Governor in

Council decided that the significant adverse environmental effects that the Designated Project is likely to cause are not justified in the circumstances.

54. The Decision Statement does not contain any reasons for the conclusion of the Governor in Council. It does not contain any indication of what information the Governor in Council considered when making this decision. It does not make any reference to information the Panel may have included in its Report respecting justifiability (pursuant to s. 6.4 of the Panel's Amended Terms of Reference).

LEGAL BASIS

55. Taseko submits that ss. 5, 6 and 7 of *Canadian Environmental Assessment Act, 2012* ("CEAA 2012") are, in whole or in part, *ultra vires* the federal government's legislative powers under s. 91 of the *Constitution Act, 1867* and thus of no force and effect, or in the alternative, must be read down or considered constitutionally inapplicable.
56. Taseko further submits that violations of procedural fairness at each stage of the CEAA 2012 assessment process are manifest in the Panel's Report, Minister's decision and Governor in Council's decision.
57. Taseko further submits that the Minister and the Governor in Council acted without jurisdiction by failing to consider relevant factors, including mitigation measures proposed by Taseko.
58. Taseko further submits that the Panel based its conclusions on erroneous findings of fact, erred in law and fettered its discretion.
59. As such, the environmental assessment carried out by the Panel and the decisions of the Minister and the Governor in Council are nullities in whole or in part.
60. In addition or in the alternative, certain findings of the Panel are invalid and should be quashed or set aside and the decisions of the Minister and Governor

in Council should be referred back for reconsideration by the Minister in accordance with the directions of the Court.

61. Last, Taseko is entitled to damages for misfeasance in public office.

A. Unconstitutionality of CEAA 2012

62. Sections 5 through 7 of *CEAA 2012* provide as follows:

5. (1) For the purposes of this Act, the environmental effects that are to be taken into account in relation to an act or thing, a physical activity, a designated project or a project are

(a) a change that may be caused to the following components of the environment that are within the legislative authority of Parliament:

(i) fish and fish habitat as defined in subsection 2(1) of the *Fisheries Act*;

(ii) aquatic species as defined in subsection 2(1) of the *Species at Risk Act*,

(iii) migratory birds as defined in subsection 2(1) of the *Migratory Birds Convention Act, 1994*, and

(iv) any other component of the environment that is set out in Schedule 2;

(b) a change that may be caused to the environment that would occur

(i) on federal lands,

(ii) in a province other than the one in which the act or thing is done or where the physical activity, the designated project or the project is being carried out, or

(iii) outside Canada; and

(c) with respect to aboriginal peoples, an effect occurring in Canada of any change that may be caused to the environment on

(i) health and socio-economic conditions,

- (ii) physical and cultural heritage,
- (iii) the current use of lands and resources for traditional purposes, or
- (iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance.

(2) However, if the carrying out of the physical activity, the designated project or the project requires a federal authority to exercise a power or perform a duty or function conferred on it under any Act of Parliament other than this Act, the following environmental effects are also to be taken into account:

- (a) a change, other than those referred to in paragraphs (1)(a) and (b), that may be caused to the environment and that is directly linked or necessarily incidental to a federal authority's exercise of a power or performance of a duty or function that would permit the carrying out, in whole or in part, of the physical activity, the designated project or the project; and
- (b) an effect, other than those referred to in paragraph (1)(c), of any change referred to in paragraph (a) on
 - (i) health and socio-economic conditions,
 - (ii) physical and cultural heritage, or
 - (iii) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance.

(3) The Governor in Council may, by order, amend Schedule 2 to add or remove a component of the environment.

6. The proponent of a designated project must not do any act or thing in connection with the carrying out of the designated project, in whole or in part, if that act or thing may cause an environmental effect referred to in subsection 5(1) unless

- (a) the Agency makes a decision under paragraph 10(b) that no environmental assessment of the designated project is required and posts that decision on the Internet site; or
- (b) the proponent complies with the conditions included in the decision statement that is issued under subsection 31(3) or section 54 to the proponent with respect to that designated

project.

7. A federal authority must not exercise any power or perform any duty or function conferred on it under any Act of Parliament other than this Act that could permit a designated project to be carried out in whole or in part unless

(a) the Agency makes a decision under paragraph 10(b) that no environmental assessment of the designated project is required and posts that decision on the Internet site; or

(b) the decision statement with respect to the designated project that is issued under subsection 31(3) or section 54 to the proponent of the designated project indicates that the designated project is not likely to cause significant adverse environmental effects or that the significant adverse environmental effects that it is likely to cause are justified in the circumstances.

63. Taseko submits that s. 5 of *CEAA 2012* exceeds the constitutional competence of Parliament in that it purports to exercise legislative authority in respect of various matters concerning aboriginal peoples where those are not matters pertaining to "Indians, and Lands reserved for the Indians" under s. 91(24) of the *Constitution Act, 1867* or aboriginal rights under s. 35 of the *Constitution Act, 1867*, and is overbroad in the extent to which it purports to regulate health and socio-economic conditions, physical and cultural heritage, and any structure, site or thing that is of historical, archaeological, paleontological or architectural significance.

64. Section 6 of *CEAA 2012* exceeds the constitutional competence of Parliament in that it purports to exercise legislative authority to prohibit a proponent from doing anything in connection with a designated project in the absence of a federal approval under *CEAA 2012*, in circumstances where that would fundamentally impair the rights and interests of a province in respect of natural resources under ss. 92 and 92A of the *Constitution Act, 1867*.

65. Section 7 of *CEAA 2012* exceeds the constitutional competence of Parliament in that it purports to exercise legislative authority to prohibit federal statutory decision-makers from considering regulatory applications in circumstances

where the federal government does not have the constitutional authority to prohibit a project from proceeding.

66. Taken together, ss. 5 to 7 of *CEAA 2012* go beyond an assessment of environmental effects for the purposes of informing federal decision-making and instead purport to create a stand-alone regulatory structure that enables the federal government to prohibit natural resource projects that it does not otherwise have the constitutional authority to prohibit.

67. As such, Taseko submits that the environmental assessment of the Project carried out by the Panel and the decisions of the Minister and Governor in Council are nullities in whole or in part.

B. Procedural fairness

68. In addition or in the alternative, Taseko submits that violations of procedural fairness at each stage of the *CEAA 2012* assessment process are manifest in the Panel's Report, Minister's decision and Governor in Council's decision.

i. The Panel

69. In the Panel's conduct of the public hearing process the Panel failed to observe principles of procedural fairness that it was required by law to observe in its conduct of the public hearing process related to the environmental assessment of the Project.

70. In particular, procedural fairness was breached when, at the end of the Panel proceedings, the Panel permitted NRCan to submit new evidence in the form of a technical memorandum appended to its closing remarks. The submission of a document labeled on its face as a "Closing Remark and Technical Memorandum" violated the Panel's hearing procedures and unfairly prevented Taseko from responding to its contents. Moreover, the Panel explicitly adopted this evidence in its Report.

71. The Panel further failed to observe principles of procedural fairness by relying

unduly on Panel Secretariat staff to draft the Panel's Report, with Secretariat staff logging 3,001 hours between the date the hearings concluded and the issuance of the Panel Report.

72. Under *CEAA 2012*, review panels are intended to be independent of government, unbiased and free from any conflict of interest. In cases where a review panel is appointed, conducting the environmental assessment of a project, holding hearings, and preparing and submitting the resulting report become responsibilities of the review panel and not the agency.
73. To permit agency staff to be excessively involved in drafting a report where an environmental assessment has been referred to an independent review panel would fundamentally undermine the purpose of referral to a panel. In addition, the acceptance and adoption by the Panel of evidence submitted at the end of the Panel proceedings was inconsistent with the Panel's duty of procedural fairness.
74. As such, this Court should declare that the Panel failed to observe principles of procedural fairness.

ii. The Minister's decision

75. The Minister failed to observe principles of natural justice or procedural fairness by:
- a. failing to provide reasons for her decision;
 - b. failing to consider relevant information including that contained in Taseko's November 15, 2013 correspondence;
 - c. meeting, or her Parliamentary Secretary meeting, privately with parties opposed to the Project after the Panel hearings had closed and before the Minister's decision had been rendered, without advising Taseko of those meetings or affording Taseko the opportunity to hear or otherwise be informed of submissions and information presented and

without otherwise affording Taseko an opportunity to respond to submissions and information presented in those meetings;

- d. receiving and considering advice from the President of CEAA and other Deputy Ministers respecting the Minister's decision under section 52(1) of *CEAA 2012* in circumstances where those individuals had, between the close of the Panel hearings but before the Minister's decision, met privately with, and received submissions and information from, parties opposed to the Project;
- e. receiving and considering written submissions from the TNG without advising Taseko of the submission or affording Taseko an opportunity to respond; and
- f. denying Taseko its legitimate expectation that:
 - i. Taseko's November 15, 2013 response to Mr. Lebeouf's request of November 13, 2013 would be considered by the Minister; and
 - ii. if third-party representations were made to the Minister or her staff and advisors after the close of the Panel hearings, then the Minister would advise Taseko of those submissions and afford Taseko an opportunity to make response submissions before making her decision under s. 52 of *CEAA 2012*.

76. As such, the Minister's decision must be set aside.

iii. The Governor in Council's decision

77. The Governor in Council failed to observe principles of natural justice or procedural fairness by:

- a. failing to provide reasons for its decision;

- b. one or more of its members holding private discussions with parties opposed to the Project, without involving Taseko and without affording Taseko an opportunity to be informed of the information presented and to make response submissions;
- c. receiving and considering advice from the President of CEAA and other Deputy Ministers respecting the Governor in Council's decision under s. 52(4) of *CEAA 2012* in circumstances where those individuals had, between the close of the Panel's hearings, but before the Governor in Council's decision, met privately with parties opposed to the Project and without affording Taseko an opportunity to be informed of the information presented and to make response submissions; and
- d. denying Taseko its legitimate expectation that if third-party representations were made to the Governor in Council, its members, or staff and advisors after the close of the Panel hearings, then the Governor in Council would advise Taseko of those submissions and afford Taseko an opportunity to make response submissions, before making its decision under section 52 of *CEAA 2012*.

78. As such, the Governor in Council's decision must be set aside.

C. Want of jurisdiction

79. In addition or in the alternative, Taseko submits that the Minister and the Governor in Council acted without jurisdiction.

80. The Minister acted without jurisdiction by failing to consider relevant factors, including the mitigation measures proposed by Taseko to mitigate any adverse environmental effects of the Project.

81. The Governor in Council acted without jurisdiction by failing to consider relevant factors, including:

- a. the mitigation measures proposed by Taseko to mitigate any adverse environmental effects of the Project; or
- b. whether the benefits of the Project justified any adverse environmental effects of the Project.

D. Erroneous findings of fact, errors of law and fettering of discretion

82. In addition or in the alternative, in rejecting Taseko's seepage modeling and instead accepting the modeling of NRCan, the Panel based its Report on an erroneous finding of fact that it made in a perverse or capricious manner and without regard for the material before it.
83. In accepting and relying on the NRCan conclusions to determine forecast seepage rates, the Panel erred in law in failing to consider case law which makes clear that post-environmental assessment permitting and related information gathering and mitigation measures are to be considered when assessing the potential for significant adverse environmental effects as defined in the *CEAA 2012*.
84. In concluding that the concentration of water quality variables in Fish Lake and Wasp Lake would exceed provincial and federal water quality guidelines and thus would constitute significant adverse environmental effects under applicable Canadian Environmental Assessment Agency policy, the Panel:
- a. based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard to the material before it regarding expected seepage (discussed above);
 - b. fettered its discretion and thus acted without jurisdiction by applying (non-legally binding) water quality guidelines as though they are determinative of what constitutes a significant adverse environmental effect for the purposes of the *CEAA 2012*;
 - c. erred in law by improperly interpreting and applying the *Reference*

Guide: Determining Whether a Project is Likely to Cause Significant Adverse Environmental Effects when determining what is likely to be a significant adverse environmental effect for the purposes of the *CEAA 2012*; and

- d. erred in law in failing to consider case law which makes clear that post-environmental assessment permitting and related information gathering and mitigation measures should be considered when assessing the potential for significant adverse environmental effects.

E. Misfeasance in public office

85. In proceeding as set out in this Consolidated Notice of Civil Claim with respect to the environmental assessment of the Project, government officials for whom the Defendants are responsible acted deliberately, unlawfully in the capacity of a public officer and with knowledge that the conduct was unlawful and likely to harm Taseko. In particular, but without limitation, such officials engaged in misfeasance in public office by:

- a. holding private discussions with parties opposed to the Project, without involving Taseko and without affording Taseko an opportunity to be informed of the information presented and to make response submissions;
- b. receiving, considering and forwarding to the Minister a 59-page written submission from the TNG without advising Taseko of the submission or affording Taseko an opportunity to respond; and
- c. refusing to provide Taseko's November 15, 2013 response to Mr. Lebeouf's request to the Minister;

86. Taseko has suffered and continues to suffer damages, losses and injuries as a result of Canada's unlawful conduct and disregard for Taseko's rights.

GENERAL

87. The amount of monetary relief claimed exceeds \$50,000.

88. The appellant proposes that this action be tried at Vancouver.

DATED this ____ day of August, 2014

John J.L. Hunter, Q.C.
Hunter Litigation Chambers
Suite 2100- 1040 West Georgia Street
Vancouver, BC V6E 4H1

Solicitors for the Plaintiff



TSILHQOT'IN NATIONAL GOVERNMENT

253 – 4th 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.¹

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".²

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.³

Most notably, the EAO concluded that the impacts of the Prosperity Mine on Tsilhqot'in culture, cultural heritage and Aboriginal rights would be insignificant.⁴ 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"⁵ of Teztan Biny and Nabas to the Tsilhqot'in people.

¹ 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").

² EAO, *Prosperity Gold-Copper Project Assessment Report* (Dec. 17, 2009), p. 143; *Recommendations of the Executive Director* (Dec. 17, 2009), p. 10.

³ *Prosperity Panel Report*, p. ii; see also pp. 29-31.

⁴ 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.

⁵ *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";⁶
- "... the loss of this cultural heritage is substantial and would impair their ability to sustain their cultural identities and ways of life";⁷
- "... 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";⁸
- "[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";⁹ 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".¹⁰

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;¹¹
- significant adverse effects on water quality in Wasp Lake and potentially Onion Lakes;¹² and

⁶ New Prosperity Panel Report, p. 197 [emphasis added].

⁷ New Prosperity Panel Report, p. 197 [emphasis added].

⁸ New Prosperity Panel Report, p. 212 [emphasis added].

⁹ New Prosperity Panel Report, p. 197 [emphasis added].

¹⁰ New Prosperity Panel Report, p. 212 [emphasis added].

¹¹ New Prosperity Panel Report, p. 129.

¹² 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)¹³ unless necessary cumulative effects mitigation measures are effectively implemented.¹⁴

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”.¹⁵

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*”.¹⁶
- 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.¹⁷

¹³ 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.

¹⁴ New Prosperity Panel Report, p. 146.

¹⁵ Letter, J. McManus (TML) to D. Caul (EAO), July 30, 2014, p. 3.

¹⁶ 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”].

¹⁷ 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.¹⁸ 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".¹⁹ 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.

¹⁸ 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"].

¹⁹ 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.²⁰ 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.

²⁰ 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'.²¹

...

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.²²

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".²³ It concluded that these problems simply could not be mitigated, by any available measures.²⁴

²¹ New Prosperity Panel Report, p. 22 [underscore added].

²² New Prosperity Panel Report, p. 83 [underscore added].

²³ New Prosperity Panel Report, p. 87.

²⁴ 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",²⁵ 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.²⁶ 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.

²⁵ Letter, J. McManus (TML) to Y. Leboeuf (CEAA), Nov. 15, 2013, pp. 7-8.

²⁶ 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,²⁷ 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.²⁸

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.

²⁷ Federal Court Order, July 29, 2014 (*attached*).

²⁸ 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 Cauf, ADM & Executive Director, BC EAO

Federal Court



Cour fédérale

Facsimile Transmittal Form / Formulaire d'acheminement par télécopieur

TO / DESTINATAIRE(S) :

Name / Nom : John Hunter, Hunter Litigation Chambers, Vancouver, BC

Facsimile / Télécopieur : (604) 647-4554 Telephone / Téléphone :

☐ As requested / tel que demandé☐ Left voice message / suite au message vocal**RECEIVED**

JUL 29 2014

WOODWARD & COMPANY
BARRISTERS & SOLICITORS

Name / Nom : Tim Timberg, Department of Justice, Vancouver, BC

Facsimile / Télécopieur : (604) 775-5942 Telephone / Téléphone :

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Name / Nom : Laura Bonenfant/ Jay Nelson, Barristers & Solicitors, Victoria, BC

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Name / Nom : Sean Nixon, Eco Justice, Vancouver, BC

Facsimile / Télécopieur : (604) 685-7813 Telephone / Téléphone :

☐ As requested / tel que demandé☐ Left voice message / suite au message vocalFROM / EXPÉDITEUR : Tamsin Ramsay
Registry Officer

Telephone / Téléphone : 604.666.3232

Facsimile / Télécopieur :

DATE : July 29, 2014

TIME / HEURE : 12:25 pm

Total number of pages (including this page) /
Nombre de pages (incluant cette page) : 4**SUBJECT / OBJET :**

Court File No. / N° Du Dossier De La Cour: T-1977-13

Between / Entre: Taseko Mines Ltd v MoE, AGC et al

Enclosed is a true copy of the Order of Case Management Judge Lafrenière dated July 29, 2014**COMMENTS / REMARQUES :**

Pursuant to section 20 of the Official Languages Act all final decisions, orders and judgments, including any reasons given therefore, issued by the Court are issued in both official languages. In the event that such documents are issued in the first instance in only one of the official languages, a copy of the version in the other official language will be forwarded on request when it is available.

Conformément à l'article 20 de la Loi sur les langues officielles, les décisions, ordonnances et jugements définitifs avec les motifs y afférents, sont émis dans les deux langues officielles. Au cas où ces documents ne seraient émis, en premier lieu, que dans l'une des deux langues officielles, une copie de la version dans l'autre langue officielle sera transmise, sur demande, dès qu'elle sera disponible.

N.B.: If you do not receive all pages being transmitted, please call the sender at the above telephone number. / Si vous ne recevez pas toutes les pages transmises, prière de communiquer avec l'expéditeur au numéro de téléphone ci-haut.

Federal Court



Cour fédérale

Date: 20140729

Docket: T-1977-13

Toronto, Ontario, July 29, 2014

PRESENT: Case Management Judge Roger R. Lafrenière

BETWEEN:

TASEKO MINES LIMITED

Applicant

and

**THE MINISTER OF THE ENVIRONMENT
AND THE ATTORNEY GENERAL OF
CANADA AND THE TSILHQOT'IN
NATIONAL GOVERNMENT AND JOEY
ALPONSE, ON HIS OWN BEHALF AND
ON BEHALF OF ALL OTHER MEMBERS
OF THE TSILHQOT'IN NATION**

Respondents

and

**THE MINING ASSOCIATION OF CANADA,
THE MINING ASSOCIATION
OF BRITISH COLUMBIA
THE MINING SUPPLIERS ASSOCIATION
OF BRITISH COLUMBIA
THE ASSOCIATION FOR MINERAL
EXPLORATION, BRITISH COLUMBIA
AND MININGWATCH CANADA**

Interveners

Page: 2

ORDER

UPON a case management conference held on July 25, 2014 by teleconference with John J.L. Hunter, QC and Heather Cochran, counsel for the Applicant, Taseko Mines Limited; Tim Timberg and Oliver Pulleybank, counsel for the Respondents, the Attorney General of Canada and the Minister of the Environment (Canada); Laura Bonenfant, counsel for the Tsilhqot'in National Government and Joey Alphonse, on his own behalf and on behalf of all other members of the Tsilhqot'in Nation; Dan Yaverbaum, counsel for the Interveners, The Mining Association of Canada, The Mining Association of British Columbia, The Mining Suppliers Association of British Columbia and The Association for Mineral Exploration, British Columbia; and Sean Nixon, counsel for the Intervener MiningWatch Canada;

AND UPON hearing the submissions of counsel;

THIS COURT ORDERS that

1. The hearing dates fixed by Order dated July 10, 2014 are hereby vacated.
2. By August 22, 2014, the Applicant shall either:
 - (i). serve and file a motion to convert this application into an action pursuant to section 18.4(2) of the *Federal Courts Act*; or
 - (ii). advise the parties that it has elected not to do so.
3. In the event the Applicant serves and files a motion to convert, the Respondents shall serve and file responding motion records by September 19, 2014.

Page: 3

4. In the event the Applicant does not serve and file such motion:

- (i). the Applicant shall serve and file the Applicant's Record by September 5, 2014;
- (ii). the Respondents shall and serve and file the Respondents' Records by November 4, 2014; and
- (iii). the Interveners shall serve and file their memoranda of fact and law by November 12, 2014.

"Roger R. Lafrenière"
Case Management Judge

Ferguson, Susan M MEM:EX

From: s.22
Sent: October-17-14 7:58 AM
To: OfficeofthePremier, Office PREM:EX
Subject: letter from Cariboo resident
Attachments: Premier Clark,Oct 16.pdf; ATT00001.txt

Dear Premier Clark,

I have attached a letter below regarding the Mt. Polley Mine, the Ministry of Energy and Mines, and the future of mining in British Columbia. I trust my concerns and vision will be given thought. Thank you for your attention.

Sincerely,

s.22

Premier Christy Clark
Parliament Buildings
Victoria, BC V8V 1X4

October 14, 2014

s.22

Dear Premier Clark,

I wrote you back in March 2012 regarding my concerns over Taseko Mines' own feasibility study and EA reports for the "New Prosperity" mine proposal. That letter is directly related to my present anxieties surrounding the Mount Polley Mine tailings dam failure, the subsequent destruction of the environment of the area downstream, and its negative impact on the economy of BC.

Although I did not receive a reply to my letter from the Ministry of Energy and Mines as you suggested I would, I do feel that you listened to my concerns about the economic realities and potential risks that existed with the New Prosperity project - basically Taseko mines having levered an existing mine and having secured credit through a royalty investment company in order to raise enough capital for construction. That left the company in an extremely poor financial position to deal with accidents and subsequent environmental disasters, let alone not having the ability to mitigate premature mine closure or abandonment.

A very disturbing aspect for me was that after the facts were presented at the Federal Review Panel Hearings in 2013, and the flaws in Taseko's proposal were revealed, (hence a damning report following), Minister Bill Bennett continued to lobby, undeterred, in favour of the Taseko Mines proposal in spite of the statements by scientists in his own ministry. (Quotes from BC Ministry of Energy and Mines listed on page 3)

Was he not aware that Taseko had refused to divulge the seepage rates obtained from certain wells, even when requested on three occasions by the panel chair months before the panel hearings even commenced? Did he not even read the report, or even its highlights?

Jump forward to August and we have a situation where the worst has happened. It followed with downplaying by the Minister of Mines and his Ministry officials. This softening of the very real impacts is very evident in the bulletins issued to residents in the Cariboo Regional District. On one occasion I had asked for clarification of a statement made in a bulletin and received no answer from either of the ministries involved, although one person answered and said they would find someone to clarify.

Ten weeks later, we have a mining company that has no intention of initiating a purposeful and significant cleanup of its mess. In Mt. Polley Mines' case however, its parent company, Imperial Metals DOES have the financial capability through capital of its assets that could be sold and applied towards detoxifying the watershed. They also have the ability to carry out a cleanup; after all they are a mining company quite capable of mechanically removing the waste and relocating it back in the tailings confinement area. It is the logical option for the long term benefits of the region. Road building, conveying and dredging will have a miniscule impact compared to the easy way out of leaving the chemical-laden waste lie there for all perpetuity. Likely the latter choice will lead to cause of death to humans and wildlife, increasing the probability of implicating individuals in government and industry in what would be inevitable future legal proceedings in our courts.

Many here in the Cariboo believe that Mr. Bennett acted in the best interests of Imperial Metals, and not the people of this province. His previous record included publicly lobbying for a company in which the federally appointed environmental review panel and government scientists concurred earlier had fatal flaws in its mining plan. In many people's minds, this seriously tainted his record as a mining minister. Now, on his watch and yours, obvious deregulation of the industry by the B.C. government has set our economy and environmental record backwards. It has also made the public unsupportive and suspicious of mining companies and their desire to strip-mine large footprint, low grade ore deposits as cheaply as possible, only to be shipped to East Asia and smelted there.

It is my hope that the mining industry can find its rightful place in the economy by mining high grade ore as sustainably as possible; this means smaller underground operations of which the grade of ore is sufficient for cost-effective refining right here in BC. If done properly, the refining of metals here at home could substantially increase the number of good paying jobs in the trades.

Sincerely yours, s.22

s.22

**Quotes from BC Ministry of Energy and Mines
From Report from Federal Environmental Review Panel
New Prosperity Gold-Copper Project
Oct. 31, 2014**

"...Project presented an environmental risk due to the significant uncertainty in seepage estimates, the ability to limit and collect tailings storage facility seepage and to effectively and economically treat water to maintain water quality in Fish Lake (Teztan Biny)." (p.78)

"...therefore Fish Lake might require recirculation in perpetuity..." (p. 78)
It is..."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 seepage..." (p. 83)

cc Dr. Dirk van Zyl; review panel member, Mt Polley Investigation
John Horgan; Leader of the Opposition
Norm MacDonald; Opposition critic, Energy and Mines
Donna Barnett; MLA, Cariboo Chilcotin

Page 101 of 197

Withheld pursuant to/removed as

s.16

Page 102 of 197 to/à Page 103 of 197

Withheld pursuant to/removed as

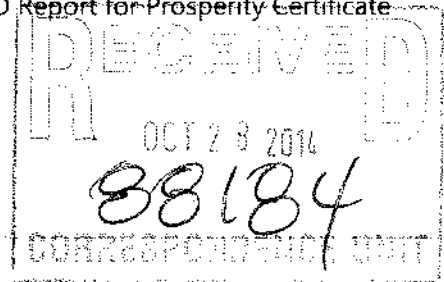
s.16 ; s.18 ; s.18.1

Holding, Lea MEM:EX

MHRD

From: Minister, MEM MEM:EX
Sent: Monday, October 27, 2014 10:13 AM
To: MEM Correspondence MEM:EX
Cc: Sandve, Chris MEM:EX; Sauder, Kit MEM:EX
Subject: FW: Letter from Tsilhqot'in Chiefs re: TML Request to EAO to Extend EA Certificate
Attachments: 2014 10 24 Tsilhqotin Chiefs to Minister and EAO ED re Prosperity EA Certificate Extension.pdf; 2014 10 24 JPL - SM re Draft EAO Report for Prosperity Certificate Extension.pdf

Info/file



From: J.P. Laplante [<mailto:jlaplante@tsilhqotin.ca>]
Sent: Friday, October 24, 2014 3:39 PM
To: Minister, MEM MEM:EX
Cc: Crystal Verhaeghe; Jay Nelson (jay@jaynelsonlaw.com)
Subject: FW: Letter from Tsilhqot'in Chiefs re: TML Request to EAO to Extend EA Certificate

Dear Minister Bennett,

Please find attached a letter from the Tsilhqot'in Chiefs to Minister Polak and EAO Executive Director Doug Caul, on which you were copied.

Regards,

J.P. Laplante
Mining, Oil and Gas Manager
Tsilhqot'in National Government
253 4th Ave North, Williams Lake BC V2G 4T4
Tel: 250-392-3918
Fax: 250-398-5798
Email: jlaplante@tsilhqotin.ca
Web: www.teztanbiny.ca
Web: www.tsilhqotin.ca

From: J.P. Laplante
Sent: October-24-14 3:27 PM
To: Environment Minister (ENV.minister@gov.bc.ca); Doug Caul (Doug.Caul@gov.bc.ca)
Cc: Jay Nelson (jay@jaynelsonlaw.com); Crystal Verhaeghe (tng-director@tsilhqotin.ca)
Subject: Letter from Tsilhqot'in Chiefs re: TML Request to EAO to Extend EA Certificate

Dear Minister Polak and Mr. Caul,

Please find attached a letter from the Tsilhqot'in Tribal Chairman and Vice-Tribal Chair, as well as the detailed response referenced in the letter.

Regards,

J.P. Laplante
Mining, Oil and Gas Manager
Tsilhqot'in National Government
253 4th Ave North, Williams Lake BC V2G 4T4
Tel: 250-392-3918
Fax: 250-398-5798
Email: jlaplante@tsilhqotin.ca
Web: www.teztanbiny.ca
Web: www.tsilhqotin.ca



TSILHQOT'IN NATIONAL GOVERNMENT

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

October 24, 2014

Honourable Mary Polak
Minister of Environment
PO Box 9047 Stn Prov Govt
Victoria BC V8W 9E2
E-mail: ENV.Minister@gov.bc.ca

Doug Caul
Associate Deputy Minister & Executive Director
BC Environmental Assessment Office
PO Box 9426 Stn Prov Govt
Victoria BC V8W 9V1
E-mail : Doug.Caul@gov.bc.ca

Dear Minister Polak & Mr. Caul,

**Re: Taseko Mines Ltd. Request for Extension to EA Certificate M09-02
(Prosperity Mine)**

We write in response to the EAO's draft Certificate Extension Report (the "**draft Report**") for the application by Taseko Mines Limited (the "**Proponent**") to extend its Environmental Assessment Certificate for the Prosperity Mine proposal (the "**Certificate**"). We also write in response to Mr. Caul's October 17th letter to the Tsilhqot'in National Government.

A more detailed response to the EAO's draft Certificate Extension Report (the "**draft Report**") is enclosed.

In 2009, the Provincial government, led by the EAO, unilaterally ended efforts to involve the Tsilhqot'in in the design of a joint review process for the original "Prosperity" proposal. This was a betrayal of our good faith efforts to participate. For that reason, and because we simply did not have the resources to participate in separate provincial and federal reviews, the Tsilhqot'in chose not to participate in the 2009 Provincial EA Review.

However, we did participate in the 2010 Federal Panel Review and again, in the 2013 "New Prosperity" Panel Review. Through these processes information essential to understanding the impacts of both the original and the new proposals were shared. In each case, independent experts found significant and immitigable impacts to Tsilhqot'in culture, rights, way of life and the environment. The Federal Government concluded that these impacts were not justified by the economic benefits and soundly rejected both versions of this Project.

Since 2009, our communities have had no faith in what they perceive to be a Provincial "rubber-stamp" process for project approvals. This mistrust remains.

From our perspective, this is an easy decision – the Project as certified has been rejected and can never be built. The Proponent is now proposing a revised design that not only fails to address concerns with the original version, but adds *new* significant issues of concern.

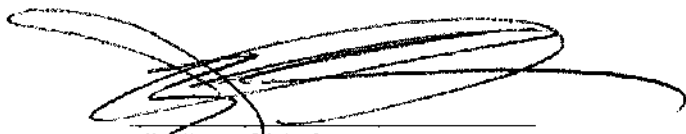
Clearly any future provincial consideration of this Project must be undertaken in a new environmental assessment, where it can be fully and properly considered. It should not be done through the "back door" of Certificate extensions and amendment processes that are clearly much narrower than a proper environmental assessment.

To grant an extension would be an irresponsible violation of the EAO's policies concerning extension requests.

By taking the only responsible option, and rejecting this application for extension, the Province has an opportunity to begin restoring faith in *your* process. Recent events (including the *Tsilhqot'in Nation* judgment and the Mount Polley disaster) call for more caution, not less. They call for mining reform, not "rubber stamp" approvals. The EAO needs to restore its legitimacy in the eyes of the Tsilhqot'in, the First Nations of British Columbia and the public.

We want to make clear by way of this letter that the only honourable decision is a rejection of the Proponent's extension request.

In Governance,



Nitsil'in (Chief) Joe Alphonse
T'etinqox-t'in
TNG Tribal Chairman



Nitsil'in Roger William
Xeni Gwet'in First Nations Government
TNG Vice-Tribal Chair

encl. *Technical Submission from TNG's Mining, Oil & Gas Manager*

cc. Tsilhqot'in Chiefs
First Nations Leadership Council
The Honourable Christy Clark, Premier
The Honourable John Rustad, Minister of Aboriginal Relations
The Honourable Bill Bennett, Minister of Energy and Mines
Crystal Verhaeghe, Executive Director, TNG
Shelley Murphy, EAO



TSILHQOT'IN NATIONAL GOVERNMENT

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

October 24, 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

Thank you for the opportunity to comment on the EAO's draft Certificate Extension Report (the "**Draft Report**")¹ for the application by Taseko Mines Limited (the "**Proponent**") to extend its Environmental Assessment Certificate for the Prosperity Mine proposal (the "**Certificate**").

In our view, the Draft Report leaves no question that the only responsible option is to deny this application to extend the Certificate (presented as Option #2 in the Draft Report).

As set out in the Draft Report, *each and every* factor from the EAO's policy statement weighs strongly against extending the Certificate, *e.g.*:

- "... [S]ome supplemental and new information has become available that could impact EAO's original effects analysis";²
- "EAO recognizes that TML has proposed significant changes to the design of the Project, and the Project as described in the Certificate will not be built";³
- "The federal rejections and the ongoing 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 ...";⁴

¹ Dated October 3, 2014.

² Draft Report, p. 9.

³ Draft Report, p. 11.

⁴ Draft Report, p. 15.

- "EAO is of the view that new mitigation measures may be required ...";⁵
- "EAO is not aware of any third party actions beyond the control of TML, outside of the course of normal regulatory process and actions that have delayed or prevented the substantial start of the Project";⁶
- "To EAO's knowledge, there are no permitting reviews underway for the Project as authorized that would be affected by not extending the Certificate";⁷
- "If the Certificate is extended, TML must still obtain an amendment to its Certificate, which may or may not be issued. This factor, as well as the uncertainty surrounding the outcome of the federal Court action, means that even if the extension is issued, applicable permits may not be granted".⁸

These conclusions make it clear this is not a typical extension application and that matters have changed dramatically since the Certificate issued.

By the EAO's own assessment: the EAO's original effects analysis is now in question; the Project cannot be built as certified; the Proponent has proposed significant design changes (which raise a host of new impacts that are unassessed and potentially significant);⁹ the potential for even this revised project to proceed at all is entirely speculative in light of the second federal rejection; and there are no permitting reviews underway that would be affected if the Certificate is left to expire.

In these circumstances, denying the extension is the only reasonable option. As the EAO correctly notes, if the Proponent were to realize its remote hopes of reversing the federal rejection of New Prosperity, it would then be free to reapply for a new EA Certificate. The review at that point would focus squarely on the *revised* project. That review could be scoped to utilize information from the previous federal and provincial reviews.¹⁰

Given the scope and magnitude of the significant, immitigable impacts identified by the New Prosperity Panel, any review of that mine design by the Province calls for a new and complete environmental assessment. The amendment process is no substitute. As the EAO notes, "[a]n 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".¹¹

⁵ Draft Report, p. 16.

⁶ Draft Report, p. 19.

⁷ Draft Report, p. 19.

⁸ Draft Report, p. 19.

⁹ See my previous letter to you, dated August 25, 2014.

¹⁰ Draft Report, p. 23.

¹¹ Draft Report, p. 23.

We do have one substantive comment about the Draft Report. The Draft Report explains that "[t]he focus of the review of the extension request is the Project as currently certified. It does not include potential effects from the proposed amendment".¹²

In our view, the Draft Report is contradictory and inconsistent on this point. If the focus of the extension request is truly on "the Project *as currently certified*", then there can be no question that the extension must be denied – both the Proponent and the EAO acknowledge that the Project can *never* be built as certified.¹³ There can be no legitimate or lawful reason to extend the Certificate for a Project that will never be built.

By contrast, if the EAO *does* consider the proposed amendments to the Project (*i.e.* the New Prosperity proposal) as a reason for granting the extension, then it cannot ignore the reality that a federal panel and the Federal Government have identified new, significant impacts from New Prosperity. If the whole basis for considering this extension request is the remote possibility that New Prosperity could get federal approval in the future, then surely the EAO cannot at the same time refuse to consider the fact that the New Prosperity proposal brings with it a fleet of *new, completely unassessed* environmental and cultural impacts.

The Draft Report cannot have it both ways. To maintain this position would lead the Executive Director or Minister into error.

Accordingly, we ask the EAO to either focus its assessment entirely on the Project as *currently certified* (in which case the extension must be denied, as that Project will never be built) *or* revise its assessment of policy factors #1 and #2 to reflect the fact that the only way this Project could ever proceed is pursuant to a design (*i.e.* New Prosperity) that raises a host of new, unassessed impacts and considerable volumes of additional information.¹⁴

Thank you again for your consideration of these comments. Please do not hesitate to contact me if I can assist in any way.

Sincerely,



J.P. Laplante
TNG Mining, Oil & Gas Manager

cc. TNG Chiefs

¹² Draft Report, p. 6.

¹³ Draft Report, pp. 9, 23.

Crystal Verhaeghe (TNG Executive Director)
First Nations Leadership Council
The Honourable Christy Clark, Premier
The Honourable Mary Polak, Minister of Environment
The Honourable John Rustad, Minister of Aboriginal Relations
The Honourable Bill Bennett, Minister of Energy and Mines
Doug Caul, Associate Deputy Minister & Executive Director, EAO

From: MEM Correspondence MEM:EX
Sent: October-28-14 9:52 AM
To: McCann, Meghan MEM:EX
Subject: FW: Ltr re Taseko Mine from KKennedy at EAO
Importance: High

Hi Megan

I don't think you've sent this to the CU yet. If you still have it, EAO has advised us (below) and no response is necessary. That will also apply to any other letters from FNs about the Taseko EAO Certificate extension. We have put this Cliff as Info/File.

Susan

From: Kennedy, Karla EAO:EX
Sent: Wednesday, October 22, 2014 1:03 PM
To: Nicoll, Sara ENV:EX; Firth, Janet MEM:EX
Subject: FW: Ltr re Taseko Mine
Importance: High

Hi Sara/Janet,

The attached letter was sent to Minister's. It does not require response from Minister Polak/DM Shoemaker or Minister Bennett/DM Nikolejsin.

Taeko Mine has requested an extension to their certificate for the Prosperity Gold-Copper Project and EAO has been working on their request. EAO provided first nations with an opportunity to comment on our draft report to address Taeko's request for an extension and this is response to that. You may see similar letters from other FNs on this same thing. EAO will be handling these as part of the review process.

Please feel free to give me a call if you have any questions.

Thank you,

Karla Kennedy
Manager, Executive Operations and Corporate Priorities
Office of the Associate Deputy Minister
B.C. Environmental Assessment Office

From: Watson, Emily PREM:EX
Sent: November-04-14 9:29 AM
To: MEM Correspondence MEM:EX
Subject: Monk - taseko mine

Hi Susan,

This is the second letter we've received from this writer. PO is drafting a response and indicating that MBB / MEM will respond to his concerns. Just a heads up!

Thanks,
Emily

Emily Watson
Correspondence Officer
Premier's Correspondence Branch
(250) 387-3939



MINISTER OF ENERGY AND MINES	
REFERRAL NUMBER	87428
REFER TO	
DRAFT REPLY <input checked="" type="checkbox"/>	INFO/FILE <input type="checkbox"/> REPLY DIRECT <input type="checkbox"/>
RECEIVED	NOV 12 2014
REMARKS:	

November 7, 2014

s.22

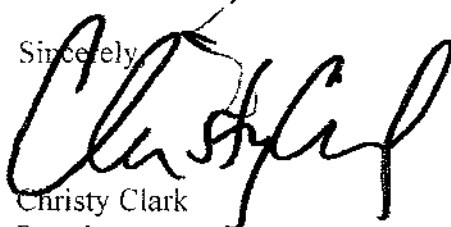
MINISTRY OF ENERGY AND MINES	
RECEIVED	
NOV 17 2014	
DEPUTY MINISTER'S OFFICE	
LOG#	

Thank you for your letter. I appreciate your taking the time to write. I understand you have concerns regarding Taseko Mines' proposed New Prosperity Mine, and the future of BC's mining industry. You have clearly put a lot of thought and research into these issues, and I've taken note of your comments.

I have shared your letter with the Honourable Bill Bennett, Minister of Energy and Mines, so that he too is aware of your anxieties. I can assure you that the Minister and his staff will be addressing your specific concerns at their earliest convenience.

Again, thank you for writing – it is good to hear from you.

Sincerely,



Christy Clark
Premier

Pc: Honourable Bill Bennett

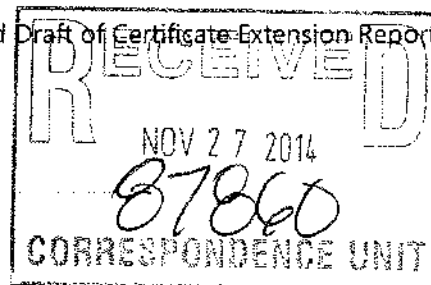
Holding, Lea MEM:EX

MMRD

From: Minister, MEM MEM:EX
Sent: Thursday, November 27, 2014 12:20 PM
To: MEM Correspondence MEM:EX
Subject: Info/File: Letter from TNG to EAO re: Revised Draft of Prosperity Certificate Extension Report
Attachments: 2014 11 27 Letter from TNG to EAO re Revised Draft of Certificate Extension Report.pdf

Info/file

From: J.P. Laplante [<mailto:jlaplante@tsilhqotin.ca>]
Sent: Thursday, November 27, 2014 9:43 AM
To: Minister, MEM MEM:EX
Subject: FW: Letter from TNG to EAO re: Revised Draft of Prosperity Certificate Extension Report



Dear Minister Bennett,

Please find attached a letter to the BC EAO, on which you were copied.

Regards,

J.P. Laplante
Mining, Oil and Gas Manager
Tsilhqot'in National Government
253 4th Ave North, Williams Lake BC V2G 4T4
Tel: 250-392-3918
Fax: 250-398-5798
Email: jlaplante@tsilhqotin.ca
Web: www.teztanbiny.ca
Web: www.tsilhqotin.ca

From: J.P. Laplante
Sent: November-27-14 9:39 AM
To: 'Murphy, Shelley EAO:EX'
Cc: Jay Nelson (jay@jaynelsonlaw.com)
Subject: Letter from TNG to EAO re: Revised Draft of Prosperity Certificate Extension Report

Dear Shelley,

Please find attached our comments on the revised draft extension report. Thanks for the opportunity to comment and the Nov 21 meeting.

Regards,

JP

J.P. Laplante
Mining, Oil and Gas Manager
Tsilhqot'in National Government
253 4th Ave North, Williams Lake BC V2G 4T4
Tel: 250-392-3918
Fax: 250-398-5798
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TSILHQOT'IN NATIONAL GOVERNMENT

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

November 27, 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

Thank you for the opportunity to comment on the EAO's second draft Certificate Extension Report (the "**Second Draft Report**")¹ for the application by Taseko Mines Limited (the "**Proponent**") to extend its Environmental Assessment Certificate for the Prosperity Mine proposal (the "**Certificate**"), and for the opportunity to meet on November 21 in Williams Lake.

General Concerns

We write with serious concerns about the way in which, in our view, the Second Draft Report appears to have been watered down as compared to the first draft (the "**First Draft Report**"). The substantive edits made to the First Draft Report do not reflect the serious and informed input that TNG provided, and rather, appear to be solely accommodating comments from the Proponent following your meeting in October.

Based on our meeting, we are further alarmed by what we perceive to be a lack of understanding of our concerns with the current extension review process, and the submissions from TNG on the First Draft Report.

This is no typical extension request. We understand this to be the first time that the EAO has been requested to extend an Environmental Certificate for a project that has been rejected by the federal government, not once but *twice*. These federal rejections call into question the integrity and reliability of the original BC Certificate and review process, and as a result we question how it is possible that an extension of this rejected Project can be considered at all.

It appears that this central issue is being ignored in both Draft Reports. It remains incomprehensible to us, and contrary to the Province's stated commitments to

¹ Dated October 3, 2014.

responsible resource development, to even consider extending a Certificate for a Project that can never be built as Certified.

Factor #1: New, Potentially Significant Adverse Effects

These problems are illustrated by the EAO's untenable position on the first policy question: *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)?*

The First Draft Report failed to document the host of potentially significant adverse effects identified *after* the Certificate was granted. Remarkably, the Second Draft Report weakens the EAO's position even further, summing up the EAO's view as "[the first federal] Panel came to different conclusions based on their own assessment of the information".²

This makes it sound like the Federal Panel simply came to a different conclusion based on the same information that was before the EAO. Indeed, in our meeting, you seemed to hold this impression, despite clear and unequivocal statements of the Federal Panel to the contrary, as set out in our previous submissions.

The EAO's suggestion that the Federal Panel simply arrived at different conclusions based on the same record before the EAO is demonstrably false and misleading. The Panel identified additional significant adverse environmental effects based on **substantial additional information, subsequent to the provincial approval**, from federal agencies and First Nations.

The Panel expressly referred to this new information in explaining the differences from the conclusions of the EAO.³

The EAO's assessment of this first policy factor must be revised to acknowledge the host of additional significant environmental effects identified *after* the Certificate was granted, based on a more complete record of information, *i.e.*:

- Significant and immitigable impacts on Tsilhqot'in current use for traditional activities, cultural heritage and Aboriginal rights, identified by both Federal Panels, based on extensive Tsilhqot'in and expert testimony subsequent to the EAO report and Certificate (in stark contrast with the EAO's conclusion that such impacts would be insignificant);⁴

² Second Draft Report, p. 15.

³ Prosperity Panel Report, p. ii ["... 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"]; see also pp. 29-31.

⁴ 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.

- The first Federal Panel's conclusion that the proposed "Prosperity Lake" compensation plan was "questionable", "unlikely" to succeed, and "would not mitigate the effects of the loss of the fishery in the Teztan Yeqox (Fish Creek) watershed",⁵ based on extensive evidence of federal scientists subsequent to the EAO report and Certificate (in stark contrast with the EAO and Provincial Ministers' reliance on "Prosperity Lake" as justification for the fisheries impacts);
- Potential significant cumulative effects on moose populations, as identified by the second Federal Panel, based on recent provincial reports (subsequent to the Certificate) documenting the precipitous decline of moose in the region (a conclusion that applies even more forcefully to the original Prosperity design);⁶
- Potential significant adverse effects on wetlands and riparian areas, as identified by the second Federal Panel, based on new evidence from federal experts, subsequent to the Certificate (a conclusion that applies even more forcefully to the original Prosperity design).⁷

These are all significant, adverse environmental effects identified subsequent to the Certificate, based on more and better information. These findings, by independent expert panels, directly calls into question the reliability of the original EAO assessment on which the Certificate was based. They must be acknowledged under this policy factor because they directly inform the extension decision.

It would be an act of willful blindness to ignore the testimony of the Tsilhqot'in from these two processes, the expert testimony, and to ignore the significant adverse impacts identified by both Panels on the environment and on Tsilhqot'in culture, rights and identity. This would not only be an error in law, but a serious breach of the Province's duties to consult in good faith with the Tsilhqot'in.

Policy Factor 2(c): New information respecting First Nations interests

Remarkably, the EAO's assessment of this factor does not even *refer* to the vast record of Tsilhqot'in testimony and expert evidence presented to both Federal Panels subsequent to the issuance of the Certificate.

As noted, the EAO concluded that the impacts of the Project on Tsilhqot'in culture, cultural heritage and Aboriginal rights would be insignificant. Based on volumes of additional testimony and evidence directly on these issues, both Federal Panels emphasized the "unique and ... special significance"⁸ of this area to the Tsilhqot'in people, and concluded that the impacts of the Project on Tsilhqot'in culture, cultural heritage and Aboriginal rights would be significant and immitigable. The second Panel

⁵ Prosperity Panel Report, p. ii.

⁶ New Prosperity Panel Report, p. 146.

⁷ New Prosperity Panel Report, p. 129.

⁸ New Prosperity Panel Report, p. x; Prosperity Panel Report, p. 203.

cautioned that approval of the Project would "endanger their ability to sustain their way of life and cultural identity".⁹

Again, the conclusions of two independent panels, based on a vastly superior record, render untenable the EAO's original assessment of these same impacts as *insignificant*. The volumes of additional information about First Nations interests, and the findings of the two Federal Panels that this information compelled, must be fully expressed in this section of the EAO report.

As noted in our meeting, the EAO report also fails to acknowledge the asserted Aboriginal title of the Tsilhqot'in Nation (in the caretaker areas of Yunesit'in and Ti'esqox) that would be impacted by the transmission corridor, and the additional strength that these claims hold in light of the Supreme Court of Canada's affirmation of a territorial view of Aboriginal title in the *Tsilhqot'in Nation* judgment.

Amendment Process and EAA s. 37

In our view, the EAO has confused and watered-down its report between drafts by artificially separating the "extension" and "amendment" issues. Simply because the EAO believes some new issues can be addressed in an amendment process or through s. 37 conditions does not mean that a host of subsequently identified, significant adverse effects can be ignored in the extension review. These impacts are *directly* relevant to deciding whether to extend a Certificate that was based on conclusions – and an incomplete record – that subsequent events have shown to be deeply flawed in many respects.

This is a situation that calls for a full environmental assessment, scoped to reflect the project design that is ultimately proposed, *if and when* the Proponent were to realize the remote possibility of overturning the second federal rejection. We strongly disagree with the EAO's apparent preference for addressing such a fundamentally changed landscape through backdoor, *ad hoc* processes (such as amendment or s. 37 conditions) that effectively amount to an "end-run" around a proper environmental assessment.

Further, to date in this process, there has been no consultation on the adverse effects identified since the EAO's 2009 Assessment Report, and we strongly disagree with the EAO's decision to delay consultation until some future amendment process.

In our view, Certificates have an expiration date for a reason: a Certificate is founded on an assessment of environmental effects that may no longer be accurate or valid, as time passes, new information comes to light and circumstances change. That same concern underscores the factors set out in the EAO's policy for extensions. At heart, several of the factors are directed at assessing whether the record and conclusions of the original assessment can still be considered valid, or whether the situation has changed to such an extent that the original assessment is questionable, and it would be irresponsible to extend a Certificate based on conclusions that may no longer be accurate.

⁹ New Prosperity Panel Report, p. x.

It is hard to imagine a situation that has changed more dramatically than this one. Since the Certificate was granted, volumes of additional, critical information have come to light, two independent Panels have identified a range of significant and immitigable impacts far beyond those originally described by the EAO, and the Federal Government has twice rejected the Project. There can be no compelling reason to extend the Certificate for a rejected project in these circumstances.

Concluding Remarks

There is only one responsible decision here and that is to deny the extension request. Anything less would undermine the principles and purpose of environmental assessment in British Columbia. As we made clear in our previous submission, *each and every* factor from the EAO's policy statement weighs strongly against extending the Certificate. For the EAO to ignore this weight of evidence would represent a further betrayal of the Tsilhqot'in by the EAO, and call into question once again the integrity of your process at a time when all eyes, First Nation and non-First Nation, are watching to see how seriously BC takes its commitment to responsible mineral development.

The Proponent received its Certificate and has had every opportunity to make its case for the Project. It has failed. Twice. The EAO and the Province do not owe the Proponent anything at this point. Denying the extension does not work any unfairness to the Proponent. In the remote event that it overcomes the second federal rejection, the Proponent is free to apply again to the EAO for an assessment, where the new design could be fully and properly assessed on its merit.

Thank you again for your consideration of these comments.

Sincerely,



J.P. Laplante
TNG Mining, Oil & Gas Manager

cc. *TNG Chiefs*
Crystal Verhaeghe (TNG Executive Director)
First Nations Leadership Council
The Honourable Christy Clark, Premier
The Honourable Mary Polak, Minister of Environment
The Honourable John Rustad, Minister of Aboriginal Relations
The Honourable Bill Bennett, Minister of Energy and Mines
Doug Caul, Associate Deputy Minister & Executive Director, EAO

From: Minister, MEM MEM:EX
To: s.22
Cc: OfficeofthePremier, Office PREM:EX
Subject: FINAL Monk - Mount Polley mine tailings dam breach
Date: Thursday, December 4, 2014 12:59:17 PM

Ref.: 87428

s.22

Dear ^{s.22}

Premier Christy Clark has asked me to respond to your October 14, 2014 letter regarding the Mount Polley mine tailings dam breach, the environmental and economic impacts, and your previous concerns about the New Prosperity project.

In regard to the Mount Polley tailings dam breach and subsequent remediation efforts, Mount Polley Mining Corporation (Company) has submitted plans to the Government that state how they will manage the short-term and long-term cleanup related to the dam breach, as well as plans related to water and solids management in the area of the dam breach itself. Currently, all remaining tailings and mine-contact water are being contained on the mine site and the company is implementing sediment and erosion control measures in lower Hazeltine Creek to reduce sedimentation into Quesnel Lake. The Company is also developing plans to manage water during the 2015 spring freshet.

The Ministry of Environment is the lead government agency with respect to the ongoing remediation efforts in the impacted area. They have established the Environmental Work Group and a Science Panel to review and provide guidance related to the ongoing efforts.

The Government has a duty to find out what happened at Mount Polley. The ongoing investigations will establish the root-cause of the breach, as well as provide recommendations and actions to mitigate these circumstances in the future, so British Columbia's mining industry can continue to contribute to the Province's economy.

With respect to the New Prosperity project, on February 26, 2014 the federal government issued its decision that the project could not proceed due to significant adverse effects that could not be mitigated. The project is now the subject of several legal proceedings and, as such, I am unable to provide specific comments, however, I appreciate you bringing your concerns to our attention.

Thank you for writing.

Sincerely,

Bill Bennett
Minister of Energy and Mines

Firth, Janet MEM:EX

From: MEM Correspondence MEM:EX
Sent: Monday, December 8, 2014 12:22 PM
To: Watson, Emily PREM:EX
Subject: 87917s.22 RE: Prosperity Gold/Copper Mine near Williams Lake

Hi Emily,

Yes we can, & I've assigned it to MMRD staff for a direct response. I will forward a copy to you as soon as it's completed.

Janet
Correspondence Coordinator
Ministry of Energy and Mines
Ministry of Natural Gas Development
250-952-0638

-----Original Message-----

From: Watson, Emily PREM:EX
Sent: Monday, December 8, 2014 10:08 AM
To: MEM Correspondence MEM:EX
Subject: FW: Prosperity Gold/Copper Mine near Williams Lake

Hi Susan,

Are MEM staff able to respond obo PCC?

Please advise.

Thanks,
Emily

-----Original Message-----

From: s.22
Sent: Friday, December 5, 2014 11:01 AM
To: OfficeofthePremier, Office PREM:EX
Subject: Prosperity Gold/Copper Mine near Williams Lake

Dear Honourable Premier Christy Clark

Are we assisting or doing anything to get this mines go ahead? It is before a Federal Panel or the Courts at present. This to do with the Environmental ruling that was somehow dealing with the wrong facts?? A tentative go ahead would sure make a lot of people happy especially the Williams Lake and area. Things will rebound and good luck with the LNG. Look forward to a reply at your convenience.

Respectfully
s.22

From: [Bellefontaine, Kim MEM:EX](#)
To: s.22
Cc: [Brody, Margo X MEM:EX](#)
Subject: CLIFF 87917 - Response to Email
Date: December 15, 2014 1:44:39 PM

Deal^{s.22}

Premier Christy Clark has forwarded me a copy of your December 5, 2014 email for response regarding the New Prosperity project. As you may be aware, the Federal Government issued its decision on February 26, 2014, that the project could not proceed due to significant adverse effects that could not be mitigated. As a result, the project is now the subject of several legal proceedings, and as such, we are not able to provide comments on the project at this time.

Best Regards,

Kim Bellefontaine, M.Sc., P.Geo.

Manager Environmental Geoscience & Permitting

B.C. Ministry of Energy and Mines

Phone: (250) 952-0489

E-mail: Kim.Bellefontaine@gov.bc.ca

ADVICE TO MINISTER

CONFIDENTIAL ISSUE NOTE Ministry: Energy, Mines and Petroleum Resources Date: Jan 23, 2020 Minister Responsible: Hon. Bruce Ralston	Taseko - New Prosperity Mine Project
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ADVICE AND RECOMMENDED RESPONSE:

- **The Tsilhqot'in Nation and Taseko mines have agreed to pause certain litigation and regulatory matters related to the New Prosperity mine project while they engage in a dialogue to reach a long-term solution.**
- **The Province has been asked to facilitate this dialogue, and the details of the process are confidential.**
- **We are committed to working with the Nation and the company to reach a resolution to this longstanding and complex matter.**
- **The Province has agreed to extend the project's current environmental assessment certificate for one year to support the discussions.**
- **Our government is committed to continuing our work with the Tsilhqot'in to build a shared understanding of land and resource management priorities and opportunities across the territory. This is a key component of our work together under the Gwets'en Nilt'i (pr: GWET-sen NEEL-ti) Pathway Agreement.**

BACKGROUND:

In December 2019, it was announced that the Tsilhqot'in National Government (TNG) and Taseko Mines would pause certain litigations while engaging in discussions to find a resolution to the long-standing conflict over the proposed New Prosperity gold-copper mine project southwest of Williams Lake. The Province has been asked to facilitate these discussions. At the request of the involved parties, the BC Environmental Assessment Office has placed Taseko's application to amend the current environmental assessment certificate application in abeyance for one year.

TNG and Taseko appeared in the B.C. Supreme Court (BCSC) on July 29, 2019, to argue the competing injunction applications: Taseko seeking to order TNG protestors from interfering with permitted work, and TNG to stop Taseko from carrying out such work until the TNG Civil Claim alleging the activities will infringe their rights is determined.

On September 6, 2019, the BCSC ruled that the TNG's injunction application should succeed, barring Taseko from doing any work until the court rules in the broader case: whether the drilling

ADVICE TO MINISTER

program infringes on the Tsilhqot'in Nation Indigenous rights. It is unknown at this time whether Taseko will appeal this decision.

A June 13, 2019, Supreme Court of Canada (SCC) decision resulted in Taseko being able to proceed with exploratory activities. In July 2017, subsequent to consultation with the TNG, Taseko was issued a notice of work permit to conduct exploratory work at the site. An EA Certificate is not required to conduct exploratory work.

Taseko provided letters to the TNG stating their earliest start date for work would be July 2, 2019 and invited the TNG to participate in the work program. On July 1, Taseko's contractors attempted to mobilize equipment to the site but were stopped by four TNG representatives including Chief Joe Alphonse and Chief Russell Mey. Taseko received a letter stating that they do not have the consent of the TNG to undertake any work associated with their *Mines Act* permit. RCMP have been involved with keeping communications open and peaceful.

On July 3, 2019, TNG stated that they intend to proceed with their notice of civil claim, which names Taseko and the Province as Defendants and asserts that the activities infringe their proven and asserted Aboriginal rights at Fish Lake. On July 25, 2019, the province was advised of the partial destruction by fire of a bridge on a forestry service road, an access route to Teztan Biny Lake, the center of the controversy between Taseko and TNG over the Project.

The New Prosperity Mine Project:

The New Prosperity Project (the Project) is ranked as one of the top 15 known, undeveloped copper/gold deposits in the world. The mine site includes the open pit, concentrator facility, support infrastructure, and associated tailings and waste rock areas, and also includes an approximately 125km long power transmission line corridor, an existing concentrate load-out facility at Macalister, BC, and existing access from Williams Lake with construction of 2.8km of new mine road. The Project has the potential to create 550 direct jobs and 1280 indirect jobs over 20 years of operation, annual government revenues of \$26.2 million per year during construction and \$48.4 million during operations, \$11 billion in gross domestic product and 57,000 person years of employment, benefitting the Cariboo-Chilcotin Region.

The Initial Environmental Assessment Certificate:

In 2010, Taseko was granted a provincial Environmental Assessment Certificate for the Prosperity Gold Copper Project, a proposed open-pit mining project to be located southwest of Williams Lake. In 2010, the federal government rejected the Project. In 2011, Taseko submitted a revised project proposal in 2011, but a subsequent federal review again resulted in another rejection in 2014. The Project's environmental certificate was extended in 2015 for a further 5 years. The Project was strongly opposed by the TNG, including its potential environmental impact and the proposed use of Fish Lake as a tailings pond. The Project falls within an area over which the courts have declared that the TNG have Aboriginal rights to hunt and trap and to trade the products of those activities. In June 2014, the SCC made a declaration of Aboriginal title to an area in close proximity to the New Prosperity area, but not including the area itself.

Communications Contact:	Holly Tally	250-818-3081
Program Area Contact:	Heather Cullen	250 565-4131
	Rick Adams	250 828-4583
File Created:	Feb. 2, 2017	
File Updated:	Jan. 22, 2020	

From: [Rochon, Jake](#) PREM:EX
To: [Minister, EMPR](#) EMPR:EX
Subject: PO log 731120 Halibauer - Taseko Mines
Date: January 24, 2020 10:15:44 AM
Attachments: Scan_20191218.pdf

Hi team!

Apologies for the delayed share on this one, not sure if you were CC'd. We will be filing this one on our end. Thank you!

Jake Rochon

Correspondence Coordinator

Office of the Premier

(250) 356-1906



Taseko Mines Limited
15th Floor, 1040 West Georgia St.
Vancouver, BC V6E 4H1
T +1-778-373-4533
F +1-778-373-4534
tasekomines.com

December 11, 2019

Premier John Horgan
PO Box 9041 Stn Prov Govt
Victoria, BC
V8W 9E1

Dear Premier Horgan:

I just wanted to drop you a short note acknowledging the important role that the folks in MEMPR and the Attorney General's office have done in bringing Taseko and the T'silhqot'in National Government ("TNG") together in an attempt to resolve our long standing differences over New Prosperity.

This initiative is important for the TNG, the Cariboo, and the Province as a whole, as well as my Company and I would like to thank the British Columbia Government for seeing that.

You likely do not realize, but New Prosperity is the largest undeveloped copper/gold orebody in North America, it truly is one of a kind.


Its ultimate development should it come to fruition will be a huge boost to the Cariboo – over \$1.6 billion in its construction, with 700 jobs, and upon completion 700 full time jobs for 30 years, plus another 1,800 indirect jobs for the same period of time.

It will return \$5 billion of economic value to the BC Government and \$4 billion to the Federal Government over its life, while at the same time paying direct mineral taxes of close to \$500 million to the Province. As well it has the opportunity to significantly enhance the economic wellbeing of the First Nations communities in the area.

Suffice it to say it would by itself replace nearly all the lost forestry jobs in the Cariboo, both native and non-native.

This is something important for the Province and something that both you and I should strive to see come to a reality.

As well we have another "mine in waiting", not quite the scale as New Prosperity but every bit as good in many aspects near Vavenby, another community devastated by mill closures.



It would see a capital investment expenditure of over \$1.3 billion during construction with close to 500 full time jobs, 1,300 indirect jobs for over 20 years. With similar economic returns to the two levels of government as New Prosperity.

With help from your government we could see both of these mines built and operating by 2023/24.

If you would like me to meet personally to discuss any aspect of this with you or your senior staff I would be more than happy to.

Kind regards and best of the season to you and your family.

TASEKO MINES LIMITED



Russell Hallbauer, PEng.
CEO



Taseko Mines Limited
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Vancouver, BC V6E 4H1
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F +1-778-373-4534
tasekomines.com

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PO Box 9041 Stn Prov Govt
Victoria, BC
V8W 9E1

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If you would like me to meet personally to discuss any aspect of this with you or your senior staff I would be more than happy to.

Kind regards and best of the season to you and your family.

TASEKO MINES LIMITED



Russell Hallbauer, PEng.
CEO

EMLI FOI EMLI:EX

From: Cochrane, Marlene EMPR:EX
Sent: January 30, 2020 10:42 AM
To: Duncan, Kate LBR:EX
Cc: Cuddy, Andrew EMLI:EX; Fogg, Bruce EMPR:EX; Sanderson, Melissa EMPR:EX
Subject: PO REQUEST: Taseko Mines CEO
Attachments: Scan_20191218.pdf; 109083 Taseko New Prosperity Jan 27.docx

Hi Kate. Please find attached a BN for the Premier regarding a possible meeting with Taseko Mines CEO. Thank you.

Marlene Cochrane
Executive Coordinator | Deputy Minister's Office
Ministry of Energy, Mines and Petroleum Resources
Victoria | British Columbia
Phone (778) 698 7254

From: Duncan, Kate EMPR:EX <Kate.Duncan@gov.bc.ca>
Sent: January 23, 2020 9:08 AM
To: Cochrane, Marlene EMPR:EX <Marlene.Cochrane@gov.bc.ca>
Cc: Robb, Amanda JTT:EX <Amanda.Robb@gov.bc.ca>
Subject: FW: REQUESTING BN Re: Taseko Mines CEO

Hello Marlene,

Please have the Ministry create an update BN as requested by the PO below.

Thanks

Kate Duncan
Administrative Coordinator to the Honourable Michelle Mungall
Minister of Energy Mines and Petroleum Resources
T: 778-974-5975
E: kate.duncan@gov.bc.ca

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From: McLaren, Chris PREM:EX <Chris.McLaren@gov.bc.ca>
Sent: January 23, 2020 9:03 AM
To: Duncan, Kate EMPR:EX <Kate.Duncan@gov.bc.ca>; Garnier, Jack LBR:EX <Jack.Garnier@gov.bc.ca>
Subject: REQUESTING BN Re: Taseko Mines CEO

Hello Kate and Jack,
Copying you both as you may be in transition.

We would like to request an updated BN on the Taseko Mines as attached.

Thank you for providing the BN to our office by January 31.

Cheers,

Chris

Christine McLaren

Scheduling Officer | Office of the Premier | T: 778-974-6083 | E: chris.mclaren@gov.bc.ca

From: Rochon, Jake PREM:EX <Jake.Rochon@gov.bc.ca>

Sent: December 18, 2019 12:03 PM

To: Holmwood, Jen PREM:EX <Jen.Holmwood@gov.bc.ca>; Smith, George PREM:EX <George.Smith@gov.bc.ca>

Cc: Nash, Amber PREM:EX <Amber.Nash@gov.bc.ca>; Hagglund, Jarrett PREM:EX <Jarrett.Hagglund@gov.bc.ca>;

Farmer, Susan PREM:EX <Susan.Farmer@gov.bc.ca>

Subject: Taseko Mines CEO

Hi all!

Letter here from the CEO of Taseko Mines about the New Prosperity project. There is an offer to meet at the end if requested.

Jake Rochon

Correspondence Coordinator

Office of the Premier

(250) 356-1906

MINISTRY OF ENERGY, MINES AND PETROLEUM RESOURCES
BRIEFING NOTE FOR INFORMATION

Date: January 27, 2020
CLIFF: 109083

PREPARED FOR: Honourable John Horgan, Premier of British Columbia

ISSUE: Meeting with Russell Hallbauer, CEO, Taseko Mines

BACKGROUND:

Taseko Mines Limited (Taseko) is a mid-tier copper producer headquartered in British Columbia (BC). It operates Gibraltar Mine near Williams Lake, the second largest open-pit copper mine in Canada, and is in the planning stages for several other mines.

Taseko also has two proposed mines in BC:

- New Prosperity: Proposed gold-copper mine in the Chilcotin region of BC, southwest of Williams Lake. This project has an estimated \$1.6 billion construction cost and projected operating employment of 700 for a 30-year mine life. It is in the traditional territory of the T'silhqot'in Nation Government (TNG).
- Yellowhead: Proposed gold-copper-silver mine, approximately 150 kilometres north-east of Kamloops near Vavenby. The project is estimated to have a \$1.3 billion construction cost with 500 full-time jobs during 25 years of operations. It is in the traditional territory of the Simpcw First Nation and the Adams Lake Indian Band.

s.12; s.13

DISCUSSION:

New Prosperity

The area surrounding New Prosperity has been the focus of debate and litigation for many years due to ongoing land use conflicts. This project falls within an area over which the courts have declared that the TNG have Aboriginal rights to hunt and trap and to trade the products of those activities. The project area is in close proximity to, but not included in, the area the Supreme Court of Canada made a declaration of Aboriginal title to. Key project developments are noted below.

Submitted NoW

Taseko submitted a Notice of Work (NoW) to the Ministry of Energy, Mines and Petroleum Resources (EMPR) in October 2016 in order to conduct site investigation work involving 47.2 hectares of new disturbance which was authorized by EMPR in July 2017. The permit includes 37 conditions to address TNG concerns and includes requiring specific environmental management plans, minimizing disturbance, conducting enhanced reclamation activities, ensuring wildlife, water and riparian protections, cultural heritage assessments, engaging in ongoing and timely updates with the TNG, and ensuring that they consider the TNG's practice of Aboriginal rights. TNG challenged the provincial Government's decision in provincial court, but the challenge was dismissed in the BC Supreme Court. Appeals were dismissed by the BC Court of Appeal.

Environmental Assessment Process

In January 2010, the Province granted an Environmental Assessment Certificate (EAC) for Prosperity (the original project name). However, the Federal Government did not approve the project under the *Canadian Environmental Assessment Act*. An updated project design (New Prosperity) was submitted in 2013 and after a second review, the Federal Government found that it would result in significant adverse environmental effects, determined the impacts could not be justified. Taseko challenged the Federal Government's decisions in the federal court, but the challenge was dismissed in December 2017. Taseko subsequently appealed the decisions, but appeals were dismissed. At this time, New Prosperity has not received federal approval.

Current Government Activities

In December 2019, the Province announced that TNG and Taseko Mines are working with the Province to reach a resolution to the long-standing conflict over the New Prosperity proposal. TNG and Taseko have agreed to pause certain litigation and regulatory matters related to the project while discussions are underway to reach a long-term solution. On January 13, 2020, Taseko received a 12-month extension for the deadline in the EAC to substantially start the project at the request of Taseko and TNG. The Province has been asked to facilitate this dialogue. The details of this process have not been made public.

Yellowhead

In December 2018, Taseko announced that it entered into an agreement to acquire all the outstanding common shares of the Yellowhead project that it did not already own for \$13 million. Yellowhead is an advanced exploration project with a recently filed technical report which announced improved economics compared to previous studies.

s.21

s.21 Taseko has not publicly shared a timeline for re-entering Environmental Assessment with this project.

KEY MESSAGES:

- The Province supports TNG and Taseko in working to a resolution to the long-standing issues with New Prosperity.
- The Province is supportive of the mining sector in BC and is committed to improving its competitiveness through the implementation of the Mining Jobs Taskforce recommendations.
- The Province supports a growing mining sector in BC that contributes to reconciliation with Indigenous Peoples.

DRAFTED BY:

Aaron Samuel
778-572-3127

APPROVED BY:

Peter Wijtkamp, A/ED✓
Chris Trump, A/ADM✓
Dave Nikolejsin, DM✓

BULLETS

DATE: February 10, 2020

PREPARED FOR: Honourable Scott Fraser, Minister of Indigenous Relations and Reconciliation

REGARDING: Joint Information Briefing for Minister Fraser, Minister Eby, and Minister Ralston:
Discussions between Taseko Mines and Tsilhqot'in National Government on New
Prosperity

SUMMARY:

s.16

KEY MESSAGES:

- It is positive to see the parties come together to explore potential paths forward. While we cannot assume what the outcome of these discussions will be, we are committed to supporting a meaningful process.

- The Province is committed to continuing work with Tšilhqot'in to build a shared understanding of land and resource management priorities and opportunities across the territory, including the lands in and around the New Prosperity site.
- This was a key component of our work together under the *Nenqay Deni Accord*, and will continue under the tripartite *Gwetsen Nilt'i Pathway Agreement*.

PREPARED BY:

Ryan Jordan, Assistant Negotiator
Strategic Liaison and Emergency Management Branch
(778) 679-0077

MINISTRY OF ENERGY, MINES AND PETROLEUM RESOURCES

BRIEFING NOTE FOR INFORMATION

PREPARED FOR: Honourable Bruce Ralston, Minister of Energy, Mines and Petroleum Resources.

ISSUE: Meeting with Taseko Mines: Richard Tremblay (VP Operations), Brian Battison (VP Corporate Affairs), and Ben Pierce (Mine Manager, Gibraltar)

BACKGROUND:

Taseko Mines Limited (Taseko) is a mid-tier copper producer headquartered in British Columbia (BC). It operates Gibraltar Mine near Williams Lake, the second largest open-pit copper mine in Canada. Gibraltar has Participation and Cooperation Agreements with the Williams Lake Indian Band and the Soda Creek Indian Band (Xat'sull). Taseko also has two proposed mines in BC: Yellowhead and New Prosperity.

New Prosperity is a proposed gold-copper mine in the Chilcotin region of BC, southwest of Williams Lake. This Project has an estimated \$1.6 billion construction cost and projected operating employment of 700 for a 30-year mine life. It is in the traditional territory of the T'silhqot'in Nation Government (TNG), who have consistently opposed this Project. TNG and Taseko recently agreed to pause litigation and are working to reach a long-term solution, facilitated by the Province.

Yellowhead is a proposed gold-copper-silver mine, approximately 150 kilometres north-east of Kamloops. The Project is estimated to have a \$1.3 billion construction cost with 500 full-time jobs during 25 years of operations. It is in the traditional territory of the Simpcw First Nation and the Adams Lake Indian Band. Taseko is engaging with the Province regarding re-entering the Environmental Assessment process for this Project.

DISCUSSION:

COVID-19 Impacts to Taseko

There have been no significant changes to Gibraltar's employee numbers during the COVID-19 pandemic so far. The Mine continues to employ approximately 700 people. Taseko indicated continued operation of the Mine and will be contingent on an available work force and copper prices. Since January 1, copper prices have fallen by approximately 17 percent. For Q1 2020, cash operating costs at Gibraltar were US \$1.82/lb copper, against an average price of US \$2.56/lb copper through the same period.

Protection of employees and vulnerable family members continues to be a priority concern for Gibraltar management. Taseko has indicated safety precautions recommended by the Chief Inspector of Mines and Provincial Health Officer with respect to COVID-19 are in place.

At this time it is unclear if the COVID-19 pandemic will have implications for Taseko's proposed projects. In Q1 2020, Taseko reported a \$49 million net loss on revenues of \$62 million.

COVID-19 Impacts to Mining and Provincial Response

The COVID-19 pandemic has created a challenging fiscal climate for mines in BC. According to the Mining Association of BC, the sector is facing challenges maintaining liquidity and cash flow as access to markets for goods and services, as well as BC's mineral products, has been disrupted. Without short- and medium-term relief, operating mines face pressure to maintain operations and employment levels as margins continue to shrink.

The BC government has recognized the significant challenges facing businesses, and in response announced a COVID-19 Action Plan as a first step to provide relief. Action Plan initiatives which support mine operators include:

- Delaying the planned incremental Carbon Tax increase;
- Cutting the School Tax in half;
- Extended tax filing and payment due dates for Employee Health Tax; and
- BC Hydro's introduction of a 50 percent electricity cost deferral for mines and industrial producers in BC for three months. This is in addition to the existing Mining Customer Payment Plan (MCP) available to mining customers.

BC Hydro's MCP allows participating copper and metallurgical coal mines to defer up to 75 percent of their electricity bill during periods of low commodity prices. Gibraltar is participating in the program. Copper prices during the most recent deferral period allowed Gibraltar to defer 54.7 percent of their electricity bill.

In addition to these broad programs, the Chief Inspector of Mines has provided a guidance document to mining and smelting operations to ensure health and safety during the COVID-19 outbreak. Ministry staff are currently evaluating sector specific relief and recovery measures, including fiscal support measures for immediate relief and longer term stimulus and recovery. The Province has allocated \$1.5 billion for economic recovery and struck an Economic Recovery Task Force to ensure the BC's economic response to COVID-19 is effective and responsive to the needs of British Columbians.

KEY MESSAGES:

- The Province recognizes Taseko's ongoing efforts to support their employees and prevent the spread of COVID-19.
- The BC COVID-19 Action Plan is the first step in the Province's response to provide relief to businesses and workers and help them recover.

- The Province recognizes the significant challenges facing the mining sector and is committed to the recovery and growth of this important sector as part of BC's post-COVID economic recovery plan.

Attachments: Attendee Biographies

DRAFTED BY:

Radha Patel
778 974-4099

APPROVED BY:

Peter Wijkamp, A/ED ✓
Peter Robb, ADM ✓
Dave Nikolejsin, DM ✓

Attachment 1 – Attendee Bios

Richard Tremblay, VP Operations

Richard Tremblay joined Taseko as General Manager, Gibraltar in July 2014. Mr. Tremblay is an experienced senior level executive with over 30 years in the mining industry. He has a strong operations background in Open Pit Mining as well as Mineral Processing.

Prior to joining Taseko Mr. Tremblay held positions as Vice President Operations, Coalspur, General Manager Fording River Operations Teck Coal, General Manager Line Creek Operations, Elk Valley Coal Corporation and Superintendent, Processing Elkview Operations and Coal Mountain Operations, Elk Valley Coal Corporation.

In May 2019 Mr. Tremblay was named Mining Person of the Year by the Mining Association of BC for his work on the BC Health, Safety, and Reclamation Code Committee and the Mining Jobs Task Force. He also served as Chair of the BC Mine Managers Committee from 2007 to 2009.

Mr. Tremblay holds an MBA from Simon Fraser University and is a professional engineer with a Bachelor of Science in Chemical Engineering from Queen's University.

Brian Battison, VP Corporate Affairs

Brian Battison is a public affairs specialist with over 30 years of experience in strategic planning, program development, issue management and communication in both the private and public sectors. He has also served as Interim President and CEO of the Mining Association of British Columbia, which represents mineral producers, the largest component of the multibillion dollar mining industry in British Columbia.

Since joining to Taseko in 2006 Mr. Battison has been responsible for government and community relations, public communications, policy development and planning. He has also been directly involved in the Federal and Provincial environmental assessment processes for both Prosperity and New Prosperity.

Ben Pierce, Mine Manager

Ben Pierce is the Mine Manager for Taseko's Gibraltar Mine.

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