

## TERMS OF REFERENCE

### PANEL REVIEW OF THE PROPOSED PROSPERITY GOLD-COPPER MINE PROJECT Section 33 Canadian Environmental Assessment Act

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#### **Introduction**

Following a request by the Minister of Fisheries and Oceans, a federal Review Panel (the Panel) has been appointed by the federal Minister of the Environment, in accordance with the requirements of the *Canadian Environmental Assessment Act* (CEAA), to conduct a review of the environmental effects of Taseko Mines Limited's proposed Prosperity Gold-Copper Mine Project (the Project). The proposed Project is an open-pit gold and copper mine located 125 kilometres southwest of Williams Lake, British Columbia.

These Terms of Reference, issued by the Minister of the Environment, have been developed in consultation with the Responsible Authorities (Fisheries and Oceans Canada, Transport Canada, Natural Resources Canada) for the Project, and in consideration of comments that were received from First Nations, Taseko Mines Limited (the Proponent), and the public.

#### **Definitions**

The definitions of terms used within the Terms of Reference are listed in Annex 1.

#### **Mandate**

The mandate of the Panel is to conduct an assessment of the environmental effects (including any effect of any change that the Project may cause in the environment on health and socio-economic conditions, physical and cultural heritage, the current use of lands and resources for traditional purposes by aboriginal persons, or any structure, site or thing that is of historical, archaeological, paleontological or architectural significance) of the proposed Project and to report to the Minister of the Environment and the Responsible Authorities in accordance with section 34 of the CEAA.

The Panel shall consider and provide conclusions on the significance of the environmental effects of the Project. Where, taking into account the implementation of any mitigation measures, the Project is likely to cause significant adverse environmental effects, the Panel should also ensure that information with respect to the justifiability of any significant adverse environmental effects is obtained.

In addition, the Panel report may provide recommendations relating to the appropriate procedures for the management of short-term and long-term environmental effects associated with the Project, should the Project proceed.

The Panel will have the mandate to invite information from First Nations related to the nature and scope of potential or established Aboriginal rights or title in the area of the Project, as well as information on the potential adverse impacts or potential infringement that the Project may have on potential or established Aboriginal rights or title.

The Panel shall fully consider and include in its report:

1. information provided by First Nations regarding the manner in which the Project may adversely affect potential or established Aboriginal rights or title; and
2. in the case of potential Aboriginal rights or title, information provided by the First Nation regarding the First Nation's strength of claim respecting Aboriginal rights or title.

The Panel will not have a mandate to make any determinations as to:

1. the validity of Aboriginal rights or title claims asserted by First Nations or the strength of those claims;
2. the scope of the Crown's duty to consult First Nations; and/or
3. whether Canada has met its respective duty to consult and accommodate in respect of rights recognized and affirmed by section 35 of the *Constitution Act, 1982*.

The Panel shall ensure that the information required for the assessment is obtained and made available to the public. Additionally, the Panel will hold hearings in a manner that offers the public the opportunity to participate in the assessment.

At the end of the review, the Panel shall prepare a report pursuant to the section of these Terms of Reference entitled "Report" and submit the report to the Minister of the Environment and the Responsible Authorities.

### **Panel Composition**

After consulting with the Responsible Authorities, the Minister of the Environment has appointed members of the Panel, including the chairperson. The Panel will be composed of three members, chosen from outside the public service, 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.

### **Scope of the Project**

The proposed gold and copper mine project site is located roughly 125km southwest of Williams Lake, British Columbia, on a 35 square kilometre parcel of Provincial crown land currently held in the form of 118 mineral claims by Taseko Mines Ltd.

The Project includes the construction, operation, decommissioning and abandonment of a large open pit mine development with a 20 year operating life. The Project includes large-scale open pit mining equipment and conventional copper porphyry flotation processing. In addition to the mine and associated tailings and waste rock areas, the Project includes the development of an onsite mill and support infrastructure, a 125 km long power transmission line and associated substations, explosives factory and magazine, a 2.8 km mine access road to connect to existing logging roads and highways and transportation of concentrate to the existing Gibraltar Mine Concentrate Load-out Facility near Macalister, 54 km north of Williams Lake.

### **Scope of the Assessment**

The assessment by the Panel will include a consideration of the following factors listed in subsections 16(1)(a) to (d) and 16(2) of the CEAA:

1. The environmental effects of the Project pursuant to section 2 of the CEAA, including the environmental effects of malfunctions or accidents that may occur in connection with the Project and any cumulative environmental effects that are likely to result from the Project in combination with other projects or activities that have been or will be carried out;
2. The significance of the effects referred to in paragraph 1;
3. Comments from the public and First Nations that are received during the public review;
4. Measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the Project;
5. The purpose of the Project;
6. Alternative means of carrying out the Project, including those that are technically and economically feasible, and the environmental effects of any such alternative means;

7. The need for, and the requirements of, any follow-up program in respect of the Project; and
8. The capacity of renewable resources that are likely to be significantly affected by the Project to meet the needs of the present and those of the future.

In accordance with subsection 16(1)(e) of the CEEA, the assessment by the Panel will also include a consideration of the additional following matters:

9. Description of the Project, including temporal and spatial boundaries;
10. Need for the Project;
11. Alternatives to the Project;
12. Community knowledge and aboriginal traditional knowledge;
13. Extent to which biological diversity (e.g. ecosystems and/or species diversity) is affected by the Project;
14. Description of the existing environment which may reasonably be expected to be affected, directly or indirectly, by the Project;
15. Measures to enhance any beneficial environmental effects;
16. Proposal for contingency plans to address malfunctions or accidents that may occur in connection with the Project; and
17. Extent of the application of the precautionary principle to the Project.

### **Environmental Impact Statement Guidelines**

The Canadian Environmental Assessment Agency (the Agency) and the British Columbia Environmental Assessment Office (BC EAO) have prepared joint Guidelines that will guide the Proponent in the preparation of the Environmental Impact Statement (EIS). The EIS Guidelines outline how and to what level of detail the Proponent shall address the factors outlined above.

### **Draft EIS Guidelines**

The draft EIS Guidelines were released by the Agency and the BC EAO for public comment from November 3 to December 3, 2008. The Guidelines were subject to a 30-day public comment period.

### **Final EIS Guidelines**

The final EIS Guidelines were issued by the Minister of the Environment and the BC EAO at the same time the Minister announced the referral of the Project to a Panel and announced the appointment of the Panel members. The Agency, in consultation with the Responsible Authorities and the BC EAO, was responsible for considering comments received and recommended appropriate changes in the EIS Guidelines to the Minister of the Environment.

### **EIS Preparation**

The Panel will require the Proponent to prepare the EIS in accordance with the EIS Guidelines. It is expected that the Proponent will submit the EIS to the BC EAO on or around January 15, 2009. The BC EAO will undertake a 30 day screening of the application against the EIS Guidelines. Once the BC EAO determines that the EIS meets the requirements of the British Columbia *Environmental Assessment Act*, the Proponent will submit the EIS to the Panel. The Proponent will notify the Panel of any deviation from the schedule at least 15 days prior to the submission date of the EIS to the BC EAO.

### **EIS Sufficiency**

Once submitted to the Panel, the EIS will be placed on the public registry, and will be made available for public review and comment for a period of 60 days. Comments on the adequacy of the EIS as measured against the EIS Guidelines and on the technical merit of the information should be provided to the Panel in writing.

Within 30 days of completion of the public review of the EIS, the Panel, taking into consideration the comments received and its own review of the EIS, will determine if the EIS contains sufficient information to proceed to public hearings.

If the Panel determines that the EIS contains sufficient information to proceed to public hearings it will schedule and announce hearings in accordance with the procedures set out in these Terms of Reference.

If the Panel determines that there are significant information deficiencies, such that the EIS is not sufficient to proceed to public hearings, the Panel will issue a deficiency statement requesting additional information which the Proponent will provide. At the same time the Panel will place the deficiency statement on the public registry and make it available to the public.

Upon completion of the public review of the additional information, the Panel, taking into consideration the comments received and its own review of the additional information, will determine within 30 days if the EIS, supplemented by the additional information, is sufficient to proceed to public hearings. The procedures described above will apply until such time as the Panel determines that the EIS contains sufficient information to proceed to public hearings.

### **Announcement of Hearings**

Once the Panel determines that the EIS contains sufficient information to proceed to public hearings, it will schedule and announce the public hearings within 7 days. The public hearings will begin no earlier than 30 days after the schedule is announced. The Panel will issue detailed procedures for the conduct of the public hearings. The public hearings will provide the Proponent, Responsible Authorities, First Nations and members of the public an opportunity to present their views on the Project. The public hearings will be conducted in a manner that ensures a comprehensive examination of matters relevant to the Panel's Terms of Reference and in particular the examination of technical evidence. The public hearings will be held in the communities most affected by the proposed Project. The Panel will use its best efforts to complete the public hearings within 30 days.

### **Specialist Advisors to the Panel**

The Panel may request specialist or expert information or knowledge with respect to the Project from federal authorities in possession of such information or knowledge. The Panel may also retain the services of independent non-government experts to provide advice on certain subjects within the Panel's Terms of Reference.

The names of the experts retained and any documents obtained or created by the experts and that are submitted to the Panel will be placed on the public registry. For greater certainty, this shall exclude any information subject to solicitor-client privilege where the expert is a lawyer.

The Panel may require an expert to appear before the Panel at the public hearing sessions and testify in regard to the documents they have created or obtained and that were submitted to the Panel and made public in accordance with the preceding paragraph.

### **Report**

Following the completion of the public hearings, the Panel will prepare and submit to the Minister of the Environment and the Responsible Authorities a report including, but not limited to, a description of the Panel review process, the rationale, conclusions and recommendations of the Panel relating to the environmental assessment of the Project, including any mitigation measures and follow-up programs. The Panel shall also include within its report a summary of any comments received from the public and First Nations.

The Panel will submit its report at the earliest possible date, within 60 days following the completion of the public hearings.

On receiving the report submitted by the Panel, the Minister of the Environment will make the report available to the public and will advise the public that the report is available.

## ANNEX 1 TO TERMS OF REFERENCE

### DEFINITION OF TERMS

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“**BC EAO**” means the British Columbia Environmental Assessment Office

“**CEAA**” means the Canadian Environmental Assessment Act;

“**EIS Guidelines**” means the direction provided to the Proponent by the Minister of the Environment and the BC EAO on matters that must be addressed in the Proponent’s Environmental Impact Statement;

“**Environmental Assessment**” means an assessment of the environmental effects of the Project that is conducted in accordance with the Terms of Reference and CEAA;

“**First Nations**” means those First Nations who have potential or established Aboriginal rights or title or who assert Aboriginal rights at or near the Project area including but not limited to the members of the Tsilhqot’in Nation (comprised of the Alexandria Indian Band (?Esdilagh), the Alexis Creek Indian Band (Tsi Del Del), Stone Indian Band (Yunesit’in Government), Anaham Indian Band (Tl’etingox’t-in Government), Xeni Gwet’in First Nations Government and the Toosey Indian Band (Tl’esqox)); the Canoe Creek Band, the Williams Lake Band, the Soda Creek Band, the Esketemc First Nation, the Canim Lake Band and the High Bar Band.

“**Panel**” means the review panel established by the Minister of the Environment pursuant to CEAA and composed of the persons appointed by the Minister of the Environment pursuant to section 33(1) of CEAA to conduct an assessment of the Project;

“**Precautionary Principle**” means the application of prudent foresight, the recognition of uncertainty, and, when decisions must be taken, to err on the side of caution;

“**Project**” means the project as described in the section of the Terms of Reference entitled “Scope of the Project”

“**Proponent**” means Taseko Mines Limited;

“**Public Registry**” means a registry established by the Agency in accordance with s. 55 of the CEAA;