

EXECUTIVE SUMMARY

Taseko Mines Ltd. (Taseko) proposed to develop the Prosperity Gold-Copper Mine (the Project) approximately 125 km southwest of Williams Lake, British Columbia. The Project would involve the construction, operation, decommissioning and abandonment of a large mine with a 20 year operating life. Its main elements would include an open pit mine, a 125 km transmission line, an onsite mill, a new site access road and fish compensation works.

Federal approval to proceed with the Project would require authorizations under the *Fisheries Act*, a permit under the *Navigable Waters Protection Act* and a licence under the *Explosives Act*.

The federal Prosperity Review Panel (the Panel) was appointed on January 19, 2009 by the Minister of the Environment, the Honourable Jim Prentice, to conduct a review of Taseko's Project. This report presents the Panel's overall conclusions and recommendations and takes into consideration information obtained during the course of the review, including 30 days of public hearing sessions held in 10 communities in the Project area from March 22 to May 3, 2010. The public hearing provided an opportunity to receive additional information on the views of participants, the current use of lands and resources for traditional purposes by First Nations and on their cultural heritage, and to thoroughly examine Taseko's proposal.

The Project would be located in the Cariboo-Chilcotin Regional District, a sparsely populated region with Williams Lake as the regional service centre. The economy within the local study area was reported to be highly reliant on the resource sector, and in particular, on forestry. The effects of the mountain pine beetle infestation and the downturn in the forest industry had a detrimental effect on the local economy. Unemployment rates were well above the provincial average. Many in the Williams Lake area saw the Project as an opportunity to improve the economy and were strong supporters of Taseko's proposal.

The mine site would cover a 35 square km area in the Teztan Yeqox (Fish Creek) watershed. The watershed, which drains to the Dasiqox (Taseko River), includes Teztan Biny (Fish Lake) and Y'anah Biny (Little Fish Lake) and the surrounding area called Nabas. The area was described by participants as a pristine, untouched, and unique ecosystem with exceptional vistas, clear glacial fed lakes and streams, relative remoteness and abundant wildlife. A postcard featuring Teztan Biny was issued by GoBC as one in a series promoting tourism in the province. The mine would involve the destruction of Teztan Biny, Y'anah Biny and portions of Teztan Yeqox. A new lake, called Prosperity Lake, would be created as part of the fish and fish habitat compensation plan. A 125 km transmission line would supply power to the mine site from the existing BC Hydro north-south transmission line east of the Fraser River.

First Nations have continued to occupy and use the Project area for traditional purposes since pre-European contact. The First Nations that would be affected by the Project include the Tsilhqot'in and Secwepemc Nations. First Nations have consistently expressed strong opposition to the Project.

The British Columbia Environmental Assessment Office undertook a separate but coordinated review of the Project and the provincial decision was announced in January, 2010. The Province's conclusion was that the Project would have a significant adverse effect on fish and fish habitat but that the effects were justified in the circumstances. The Panel

has made a number of observations related to the challenges resulting from the application of separate environmental assessment processes. In particular, the Panel notes that 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.

The Terms of Reference issued by the Minister of the Environment require the Panel to conduct an assessment of the environmental effects of the Project which includes the effects on the current use of lands and resources for traditional purposes and cultural heritage. The Panel was also instructed to fully consider and include in its report information on how the Project might affect potential and established Aboriginal rights or title. The Panel interprets its mandate to mean that Aboriginal rights and title should be assessed in the same way as environmental effects. However, the Panel does not have a mandate to make any determination as to the validity of the rights or title claims asserted by First Nations or the strength of those claims.

The Panel concludes that the Project would result in significant adverse environmental effects on fish and fish habitat, on navigation, on the current use of lands and resources for traditional purposes by First Nations and on cultural heritage, and on certain potential or established Aboriginal rights or title. The Panel also concludes that the Project, in combination with past, present and reasonably foreseeable future projects would result in a significant adverse cumulative effect on grizzly bears in the South Chilcotin region and on fish and fish habitat.

The reasons for these conclusions are summarized as follows:

Fish and Fish Habitat

The Project would result in the destruction of approximately 90,000 rainbow trout in Teztan Biny (Fish Lake) and Y'anah Biny (Little Fish Lake). For First Nations, lake trout are an important and well established food source when salmon populations are low. Teztan Biny is also a fishing lake valued by recreational fishers.

The fish and fish habitat compensation plan would result in the creation of a new replacement lake called Prosperity Lake. Although it would be designed to support approximately 20,000 larger rainbow trout, it would neither meet Fisheries and Oceans Canada No Net Loss policy nor provide assurance to First Nations that the fish would be safe for consumption. Also, the success of re-creating a lake with adjacent spawning and rearing channels is questionable as no information was presented regarding the successful replacement of an entire lake and stream system as a self-sustaining ecosystem. It is unlikely that the plan would meet the requirements for the establishment of a self-sustaining rainbow trout population, or a replacement First Nation food fishery. Perpetual maintenance of spawning channels and ongoing lake stocking by governments would likely be required to achieve the proposed provincial fisheries objectives. The Panel finds that the fish and fish habitat compensation plan would not mitigate the effects of the loss of the fishery in the Teztan Yeqox (Fish Creek) watershed. The Panel concludes that the Project would result in a high magnitude, long-term and irreversible effect. Also, if the mine expands to extract the announced increase in mineral reserves, the expanded tailings storage facility would have an additional cumulative effect on the

fish habitat compensation plan for the present Project. This would place further stress on the likelihood of success of the compensation plan proposed for this Project.

Navigation

Transport Canada expressed concerns about how the Project would interfere with navigation and the lack of suitable mitigation to compensate for these losses. The Panel notes Transport Canada's assertion that Prosperity Lake would not adequately mitigate the losses of the fishing and recreational experience at Teztan Biny (Fish Lake) or the use by First Nations. Transport Canada has linked these issues to navigation. The Panel notes that the Project's effects on navigation in the absence of effective mitigation measures would be high magnitude and irreversible. Therefore, the Panel agrees with Transport Canada's conclusion that the Project would have a significant adverse effect on navigation.

Current use of lands and resources for traditional purposes and cultural heritage

The Tsilhqot'in and Secwepemc's current use of the mine site and the transmission line corridor for traditional purposes includes hunting, fishing, trapping, gathering of plants and berries for food and medicinal purposes, as well as ceremonial and spiritual activities.

First Nations people of all ages told the Panel that Teztan Biny (Fish Lake) was integral to the Tsilhqot'in culture. The Teztan Biny and Nabas areas were described as a place in their traditional territory where they go to exercise their established Aboriginal right to hunt and trap, their potential Aboriginal right to fish in Teztan Biny, to carry out activities for traditional purposes such as gathering plants for sustenance and medicinal purposes, and to ensure the continuation of intergenerational knowledge through cultural gatherings, ceremonies and the teaching of traditions to younger generations. The island in Teztan Biny (Fish Lake), which would be destroyed by the mine waste storage area, is a place of spiritual power and healing for the Tsilhqot'in. The archaeological finds in the area are important to the Tsilhqot'in as such finds are evidence of their ancestral heritage and an integral part of their cultural traditions. The area of the mine site was reported by the Tsilhqot'in to contain numerous heritage resources of importance including pit houses, cache pits, cremation sites, and graves, including at least 1 identified grave site and others that were reported but had not been located during the surveys. Sites that have not been identified would likely be uncovered or inadvertently destroyed during construction.

First Nations stated that the Nabas area, located immediately to the south of Teztan Biny (Fish Lake), had been occupied for generations. This area would be removed from future use as a result of the Project. The mine would reduce the area available for current use activities for traditional purposes. While there are other areas where some activities such as hunting, trapping and gathering of plants and berries could occur, the availability of such areas has been reduced due to logging, ranching and private land ownership in the area. In the Panel's view, the ability to practice these activities in one location, together with cultural and spiritual values and the archaeological importance of the Teztan Biny (Fish Lake) area, contributed to the special value of this area for the Tsilhqot'in. The Panel heard that the cultural importance and spiritual value of the Teztan Biny area could not be replaced or mitigated. Thus, the Panel's overall conclusion is that the Project would have a high magnitude, long term, irreversible effect on the Tsilhqot'in.

The effects of the Project on the Secwepemc would result mainly from the proposed transmission line. The Panel notes that there would be some flexibility to adjust the location of the final centreline for the transmission line and the placement of poles to avoid most sensitive areas. Therefore, it is the Panel's conclusion that with mitigation, the effects of the Project on the Secwepemc's current use of lands and resources for traditional purposes and on cultural heritage would not be significant.

First Nations stated they were not opposed to mining in general, but rather to a development that would result in the destruction of Teztan Biny (Fish Lake). Taseko had not proposed any measures to offset losses other than to refer to British Columbia's recent policy on revenue sharing with affected First Nations. Many First Nation members indicated that no amount of monetary compensation could replace the loss of the Teztan Biny ecosystem.

Potential or established rights and title

The mine site would be located in the area known as the Claim Area in *Tsilhqot'in Nation vs. British Columbia*, 2007 SCBC 1700 (the *William* case). In that case, the Supreme Court of British Columbia found that the Tsilhqot'in have a right to hunt and trap birds and animals throughout the Claim Area, to trade in skins and pelts, and capture and use horses for transportation and work. The Panel concludes that the Project would have a significant adverse effect on established Tsilhqot'in Aboriginal rights, recognized and affirmed in the *William* case, as the area of the proposed mine site would no longer be available for their use in exercising these rights throughout all phases of the Project. The Panel was not made aware of any offers of compensation to offset losses other than a reference made by Taseko to the recently announced British Columbia revenue sharing policy.

In addition, the Tsilhqot'in asserted an Aboriginal right to fish in Teztan Biny (Fish Lake) in a pending court action, *Baptiste et al. v. Taseko Mines Ltd.*, HMTQ BC and AGC. The Panel concludes that the effects of the Project on this asserted Aboriginal right would be significant as the lake and its fishery would be destroyed and replaced with a waste rock storage area.

While the Court found that Aboriginal title could not be granted in the *William* case due to the way the case was argued, the Court indicated that had the case been pleaded differently, it probably would have found Aboriginal title for the Tsilhqot'in to almost half of the Claim Area. However, the land to which title would have been granted did not include the Project area. The decision is under appeal by all parties. However, the Tsilhqot'in have asserted title to the Project area. The Panel concludes that the effects of the Project on the potential Tsilhqot'in title would be significant as the value of the claim would be reduced substantially due to changes in the landscape and the loss of the area for current use for traditional purposes.

No treaties have been signed in the Project area with potentially affected First Nations. However, portions of the transmission line would be located in areas that were reported to be under negotiation through the British Columbia treaty process. Both the Esketemc (Alkali Lake Band) and the Stswecem'c/Xgat'tem (Canoe Creek Band), members of the Secwepemc Nation, stated they were in stage 4 of the 6-stage treaty process. The Secwepemc Nation stated it had a proven Aboriginal right to hunt in the region, as per the *Alphonse* case, and a proven right to fish. The Stswecem'c/Xgat'tem and Esketemc also asserted Aboriginal rights and title over portions of the area crossed by the

transmission line. The Stswecem'c/Xgat'tem noted that they had uncontested rights to hunt and fish in the area of the transmission line.

With respect to the Esketemc (Alkali Lake Band) and the Stswecem'c/Xgat'tem (Canoe Creek Band), the Project would have a direct effect on their title claim as the transmission line would reduce the availability of land for selection during the treaty process. The Panel concludes that, depending on the size of the land settlement through the treaty process, the Project may result in a significant adverse effect on Aboriginal title that could be granted to them. The transmission line would also adversely affect the established right to hunt, but the Panel concludes that this would not be a significant effect. As with the Tsilhqot'in, no offer of compensation has been made to offset these losses.

Grizzly Bears

The past effects of logging and other activities such as ranching have resulted in a significant adverse effect on the sustainability of the South Chilcotin grizzly bear as indicated by its classification by the Province as threatened in the region. While the Project would result in a relatively small loss in habitat, it would contribute to a further decline of the present situation. Logging is expected to continue to affect habitat in the area due to the increased harvesting in response to the mountain pine beetle infestation. This would place even greater pressure on the remaining bear habitat in the South Chilcotin region.

Taseko's mitigation measures included strict enforcement of speed limits to minimize bear-vehicle collisions and a policy of using a non-lethal approach in resolving any incident involving bears, should they arise. These mitigation measures would not replace lost habitat, nor would they reduce fragmentation of the landscape. Further, speed limits for vehicles may be difficult to enforce. Given the increased road traffic and further loss and fragmentation of habitat caused by the Project, in combination with reasonably foreseeable forestry activities, the Panel concludes that the Project would likely result in high magnitude, long-term effects on the South Chilcotin grizzly bear population.

In addition, at the local level, the Panel concludes that the Project would have significant adverse effects on the users of the meadows within the Teztan Yeqox (Fish Creek) watershed, on the Xení Gwet'in (Nemiah Band)/Sonny Lulua trapline and on Taseko Lake Outfitters. The users of the meadows would be unable to graze their livestock in these meadows, the Xení Gwet'in (Nemiah Band) would be unable to trap in the mine area and Taseko Lake Outfitters would likely not be able to continue its ecotourism business due to the proximity of the mine site.

While the Panel has also examined information on the employment and economic benefits associated with the Project, it has not reached a conclusion on this subject. The Panel's Terms of Reference limit it to addressing changes in socio-economic conditions caused by a change the Project may make in the environment. Economic issues (e.g. employment, income, government finances and economic and regional development), in the Panel's opinion, do not result from an environmental change caused by the Project.

However, information on employment and economic benefits is relevant to the issue of whether the significant adverse environmental effects of the Project are justifiable. While the Panel has no mandate to reach conclusions on justifiability, it is mandated to include such information in its report.

The potential employment and economic benefits of the Project were considered by many to be beneficial. Taseko indicated that the Project was expected to generate, on average, approximately 375 direct jobs per year during the construction and operations phases. Additionally, approximately 600 indirect and induced jobs per year on average would be created within British Columbia during the 20 year operating life of the mine. Spending in the regional and provincial economy would be approximately \$200 million with government revenue estimated to be \$30 million annually over the life of the Project.

With respect to the mine site, the Panel notes that Taseko stated the only economically viable option, given the location of the ore body in proximity to Teztan Biny (Fish Lake), was the preferred mine development plan. Therefore, if the Project proceeds, there would be no other viable alternatives that could be explored to avoid the significant adverse environmental effects identified by the Panel.

The Panel has also provided, in accordance with its mandate, recommendations relating to appropriate procedures for the management of environmental effects, should a decision be made to approve the issuance of authorizations, permits or approvals that would be required to enable this Project to proceed. These recommendations are in addition to commitments made by Taseko and contained in the provincial Environmental Assessment Certificate, and include measures to further mitigate potential effects and to assist in future consultation with First Nations. However, the Panel believes that these recommendations would not eliminate or accommodate the significant loss First Nations would experience as a result of the Project.