



The Government of Canada's Response to the Environmental Assessment Report of the Joint Review Panel on the Kemess North Copper-Gold Mine Project

The Project

Northgate Minerals Corporation (Northgate) proposes to develop the Kemess North Copper-Gold Mine Project (Project), located approximately 250 km northeast of Smithers, B.C., and 450 km northwest of Prince George, B.C.

The Project represents an expansion of the existing Kemess South mine, including the development of a new open pit and modification of the existing mill and related infrastructure. Activities would include the construction of a new pit, haul roads, a primary ore crusher, a 25-kV powerline extension, an ore conveyor and tunnel delivery system to the Kemess South mill, waste rock dumps, a fuel storage area, an explosives manufacturing plant, tailings pipelines and a tailings impoundment area.

The Project would result in the milling capacity at the operating Kemess mine being increased from the current 55,000 tonnes per day to up to 120,000 tonnes per day. Over the life of the Project, Northgate estimates that 397 million tonnes of tailings and 325 million tonnes of waste rock would be generated. Northgate proposes to place most of the waste rock and tailings underwater in a natural water body, Duncan (Amazay) Lake. The Project would be carried out in three phases, a construction phase (2 years), an operational phase (11 years) and closure phase (up to 5 years).

The Environmental Assessment Process

In 2004, Northgate submitted a project description to the British Columbia Environmental Assessment Office and the Canadian Environmental Assessment Agency.

The Project requires:

- i. Fisheries and Oceans Canada (DFO) authorization for the harmful alteration, disruption or destruction of fish habitat pursuant to subsection 35(2) of the *Fisheries Act* for the construction of the Tailings Impoundment Area (TIA) dams; and a recommendation to the Governor in Council for the making of regulations to list Duncan (Amazay) Lake as a TIA on Schedule 2 of the *Metal Mining Effluent Regulations* (MMER) under paragraphs 36(5) (a) to (e) of the *Fisheries Act*;
- ii. Natural Resources Canada (NRCan) licence under paragraph 7(1) (a) of the *Explosives Act* for the construction of an explosives manufacturing plant; and

- iii. Transport Canada (TC) approval under paragraph 5(1)(a) of the *Navigable Waters Protection Act* for the dams, slurry pipeline, and waste rock in and at Duncan (Amazay) Lake and an exemption under section 23 of the same Act for the deposition of tailings in Duncan (Amazay) Lake.

These regulatory requirements make it necessary to conduct an environmental assessment for the Project under the *Canadian Environmental Assessment Act* (CEAA) prior to issuing any federal approvals.

On September 24, 2004, the Minister of DFO, supported by the Ministers of TC and NRCan, requested that the Minister of the Environment refer the Project to a review panel under paragraphs 25 (a) and (b) of CEAA due to public concerns and uncertainties related to the potential for the Project to cause significant adverse environmental effects, including the possible destruction of a whole-lake ecosystem. The Minister of the Environment referred the Project to a review panel on March 14, 2005.

The Project constitutes a reviewable expansion of an existing mineral mine, pursuant to Part 3 of the *Reviewable Projects Regulation* of the *British Columbia Environmental Assessment Act*. Consequently, a provincial environmental assessment was also required.

On May 19, 2005, the federal Minister of the Environment and the British Columbia Minister of Sustainable Resource Management signed an agreement concerning the Establishment of a Joint Review Panel for the Kemess North Copper-Gold Mine Project (Agreement). Under the Agreement, the Joint Review Panel (JRP) was authorized to undertake the review requirements of CEAA and the *British Columbia Environmental Assessment Act*. The Agreement established the terms of reference of the JRP, which prescribes the scope of the environmental assessment and the components of the JRP process. The environmental assessment of the Project was undertaken jointly with British Columbia in accordance with the *Canada - British Columbia Agreement for Environmental Assessment Cooperation*.

Various opportunities for participation by interested parties were provided for during the JRP process. Public comment periods were held on the draft agreement concerning the Establishment of a Joint Review Panel for the Kemess North Copper-Gold Mine Project the guidelines for the preparation of the Environmental Impact Assessment (EIA), and the EIA itself.

Public hearings on the environmental effects of the Project were held in Prince George, B.C. from October 30 to November 3, 2006, and in Smithers, B.C. from November 20 to 24, 2006. Additional hearing sessions were held in the Aboriginal community of Kwadacha (Fort Ware) from December 5 to 7, 2006, to facilitate participation in the panel process by members of the Tse Keh Nay. The Panel held additional hearings in Smithers from May 14 to 17, 2007, specifically to obtain additional information from Aboriginal people, particularly new information on traditional land use and socio-economic conditions, and to give an opportunity for other parties to provide final submissions to the JRP.

The JRP considered the following issues at the hearings: purpose, need, and alternatives to the project, including alternative means of

carrying out the project; potential environmental effects, including effects on human health, water management and quality, fish and fish habitat, and terrestrial resources; potential accidents and malfunctions; cumulative environmental effects; socio-economic issues; aboriginal issues, including traditional land use and Traditional Ecological Knowledge; tailings management; air emissions; stakeholder and public consultation; and environmental sustainability.

The hearings gave interested parties the opportunity to better understand the Project and its consequences, and to provide their views and concerns to the JRP. Northgate presented information on the Project and provided clarifications as required. Federal and provincial government agencies also presented their views on the Project and its potential effects and mitigation measures. All hearing sessions were recorded by a court reporter and broadcast on the Internet.

The Joint Review Panel Report

The JRP delivered its report to the Minister of the Environment and the Provincial Minister of Environment on September 17, 2007. The report addresses the factors identified in the JRP's Terms of Reference, and sets out the rationale, conclusions and recommendations of the JRP relating to the environmental assessment of the Project, including any mitigation measures and follow-up program, and an assessment of whether issues raised by Aboriginal people and the public, that are within the scope of the environmental assessment, have been or will be addressed.

The JRP concluded that the economic and social benefits provided by the Project, on balance, are outweighed by the risks of significant adverse environmental, social and cultural effects, some of which may not emerge until many years after mining operations cease. The JRP made an overall recommendation on the Project, identified as Recommendation #31 in the JRP report, which states "The Panel recommends to the federal and provincial Ministers of the Environment that the Project not be approved as proposed."

The JRP acknowledged that Ministers could disagree with the Panel's advice and approve the Project. Therefore, the JRP included thirty-two additional recommendations in their report, which in the view of the JRP, would help to enhance Project benefits and facilitate efforts to manage and minimize adverse effects, should the Project proceed.

The Government Response

The JRP's recommendations to the Government of Canada are addressed through this federal response pursuant to subsection 37 (1.1) of CEAA, as approved by the Governor in Council and in consultation with other federal agencies.

The Government of Canada accepts the overall JRP recommendation on the Project (Recommendation #31) as presented in the report. In preparation of this Government of Canada Response, DFO, NRCan and TC, as the Responsible Authorities (RAs) under CEAA, carefully considered the report submitted by the JRP.

Paragraph 37(1.1)(c) of the CEAA, indicates that the RAs shall take a course of action that is in conformity with the approval of the Governor in Council. As a result, under subsection 37(1) of the CEAA,

DFO, NRCan and TC, as the Responsible Authorities, shall not exercise any power or perform any duty or function conferred on it by or under any Act of Parliament that would permit the Project to be carried out in whole or in part.

DFO, NRCan and TC will not be issuing any subsection 35(2) *Fisheries Act* authorizations, a paragraph 7(1)(a) *Explosives Act* licence or any paragraph 5(1)(a) *Navigable Water Protection Act* approvals associated with this Project. DFO will not make a recommendation to amend the *Metal Mining Effluent Regulations* (MMER) to allow tailings storage in Duncan (Amazay) Lake. TC will not recommend granting an exemption pursuant to section 23 of the *Navigable Waters Protection Act* to enable the deposit of tailings into Duncan (Amazay) Lake.

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Government of Canada Response to the Report of the Federal Review Panel for the Taseko Mines Limited's Prosperity Gold-Copper Mine Project in British Columbia

The Project

Taseko Mines Limited (Taseko) proposes to develop a high-tonnage open pit gold-copper mine (the Project) to be located 125 km southwest of Williams Lake, British Columbia (B.C.). The mineral deposit is described as being located 1 km north of Teztan Biny (Fish Lake) and 10 km northeast of lower Dasiqox Biny (Taseko Lake) and in the Teztan Yeqox (Fish Creek) watershed. The mine site would be located on a 35 km² parcel of land. The Project would be carried out in three phases, a construction phase (2 years), an operational phase (20 years) and closure phase (up to 24 years).

As proposed, the Project would involve an open-pit mine that would produce gold and copper over a 20-year operating life with a production capacity of approximately 70,000 tonnes per day. The Project would include five main elements: mine site, access road, transmission line, rail load-out facility and fish and fish habitat compensation works. The mine site would include an open pit, a camp, an onsite mill, support infrastructure, waste rock stockpiles, a tailings storage facility, and typical large-scale open pit mining equipment, including a primary crusher and overland conveyor. Access to the mine site would be via a 2.8 km access road which would be extended from an existing road.

Electricity would be provided via a 125 km long, 230 KV power transmission line, connected to a new switching station at the existing B.C. Hydro north-south transmission corridor in the vicinity of Dog Creek, east of the Fraser River. The ore would be processed in the mill and the resulting concentrate would be trucked to the existing rail loading facility at Macalister. Taseko proposes to place waste rock, overburden, low grade ore and tailings in natural water bodies, after draining them, which would result in the destruction of Teztan Biny (Fish Lake), Y'anah Biny (Little Fish Lake) and Teztan Yeqox (upper Fish Creek).

The 24-year closure phase would include the time period from the end of tailings production through to the time period when the open pit would fill with water and start discharging that water to the receiving environment.

The Environmental Assessment Process

The environmental assessment (EA) under the *Canadian Environmental Assessment Act (CEA Act)* commenced on July 10, 1997 as a comprehensive study. On February 19, 2007, Fisheries and

Oceans Canada (DFO), with the support of Transport Canada (TC) and Natural Resources Canada (NRCan), as the Responsible Authorities (RAs), referred the Project to the Minister of the Environment for referral to a review panel. On January 19, 2009, the Minister of the Environment referred the project to a Federal Review Panel (the Panel).

The Project requires:

1. DFO authorization under section 32 of the *Fisheries Act* to permit the destruction of fish by means other than fishing; an authorization under subsection 35(2) of the *Fisheries Act* to harmfully alter, disrupt or destroy fish habitat; and a recommendation to the Governor in Council (GiC) for the making of regulations to list portions of the Teztan Yeqox (Fish Creek) watershed as a tailings impoundment area on Schedule 2 of the *Metal Mining Effluent Regulations* (MMER) under paragraphs 36(5) (a) to (e) of the *Fisheries Act*.
2. NRCan licence under paragraph 7(1)(a) of the Explosives Act for the construction and operation of an explosives factory and magazine; and
3. TC approvals under the *Navigable Waters Protection Act* (NMPA), specifically; subsection 5(2) for the placement of the dam in Fish Creek, subsection 5(3) for the placement of the transmission lines over Big Creek and the Fraser River.

In addition, under a process independent of this EA, a GiC authorization to allow an exemption under section 23 of the *NWPA*, which authorizes the dumping of fill in navigable waters less than 20 fathoms is required. This will extinguish navigation on Teztan Biny (Fish Lake) and Y'anah Biny (Little Fish Lake).

A number of these regulatory requirements made it necessary to conduct an EA for the Project under the *CEA Act* prior to issuing any federal approvals.

Various opportunities for participation by interested parties were provided for during the Panel process. Public comment periods were held on the draft agreement concerning the establishment of the Panel, the guidelines for the preparation of the Environmental Impact Statement (EIS) and the EIS itself.

The Panel held public hearings from March 22 to May 3, 2010 in the communities most affected by the Project. The Panel held three types of hearing sessions: general, community, and topic-specific. The general hearing sessions were held in Williams Lake, 100 Mile House and Alexis Creek. The Panel held community hearing sessions in the First Nation communities of the Tsilhqot'in First Nation (TFN), including the Xeni Gwet'in (Nemiah Band), the Yunesit'in (Stone Band), the TI'esqox (Toosey Band), the TI'etinqox (Anaham Band) and the Tsi Del Del (Redstone Band) as well as the First Nations communities of the Stswecem'c/Xgat'tem (Canoe Creek Band) and the Esketemc (Alkali Lake Band). Topic-specific sessions on alternative means of carrying out the Project, water quality and quantity, fish and fish habitat, terrestrial environment and socio-economics were also held in Williams Lake. Closing remarks were received in Williams Lake on May 1, 2010 and May 3, 2010. The Panel was in session for 31 hearing days, over 42 calendar days. The public hearing sessions were very well

attended, with approximately 320 presentations being made to the Panel and a total of approximately 2,700 people attending the various hearing sessions.

The Panel considered the following issues at the hearings: purpose, need, and alternatives to the Project, including alternative means of carrying out the project; potential environmental effects, including effects on human health, water management and quality, fish and fish habitat, and terrestrial resources; potential accidents and malfunctions; cumulative environmental effects; socio-economic issues; Aboriginal issues, including traditional land use and Traditional Ecological Knowledge; tailings management; air emissions; stakeholder and public consultation; and environmental sustainability.

The hearings gave interested parties the opportunity to better understand the Project and its consequences, and to provide their views and concerns to the Panel. Taseko presented information on the Project and provided clarifications as required. Federal Government agencies also presented their views on the Project and its potential effects and mitigation measures.

The Federal Review Panel Report

The Panel delivered its Report to the Minister of the Environment on July 2, 2010. The Report addresses the factors identified in the Panel's terms of reference and sets out the rationale, conclusions and recommendations of the Panel relating to the EA of the Project, including any mitigation measures and follow-up program.

The Panel concluded 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. The Panel also concluded 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 Panel stated in its report that the potential employment and economic benefits of the Project were considered by many to be beneficial and that Taseko had 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.

The Panel made twenty-four recommendations relating to the management of environmental effects, should the project proceed. However the panel outlined that the project would result in significant adverse environmental effects 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 and title..

Government of Canada Conclusions

The response to the Panel's Report and recommendations to the Government of Canada are addressed through this federal response pursuant to subsection 37(1.1) of the *CEA Act*, as approved by the GiC and in consultation with other federal agencies.

The Government of Canada accepts the conclusions of the Panel as presented in the Report. The Government commends the Panel for undertaking a thorough and comprehensive assessment of the environmental effects of the Project.

Taking into consideration the Report of the Panel and the implementation of any mitigation measures that the RAs consider appropriate, and in weighing the socio-economic benefits and potential significant adverse environmental effects the Government of Canada has determined that the significant adverse environmental effects cannot be justified in the circumstances.

The Government of Canada wishes to see resource projects developed, however, it must balance the economic benefits of projects with responsible resource development. The Government is not opposed to the mining of the Prosperity ore body, however, it cannot justify providing the authorizations that would enable the Project to be carried out as proposed. The Government notes that this decision does not preclude the proponent from submitting a project proposal that includes addressing the factors considered by the panel.

Course of Action Decision

Paragraph 37(1.1)(c) of the *CEA Act*, indicates that the Responsible Authorities (RAs), DFO, NRCan and TC, shall take a course of action that is in conformity with the approval of the GiC. As a result, under subsection 37(1) of the *CEA Act*, the RAs, shall not exercise any power or perform any duty or function conferred on them by or under any Act of Parliament that would permit the Project to be carried out in whole or in part.

The RAs will not issue any subsection 35(2) *Fisheries Act* authorizations, any paragraph 7(1)(a) *Explosives Act* licence or any paragraph 5(2) and 5(3) *Navigable Water Protection Act* approvals associated with this Project. DFO will not make a recommendation to amend the *Metal Mining Effluent Regulations* (MMER) to allow tailings storage in Teztan Biny (Fish Lake), Y'anah Biny (Little Fish Lake) and portions of Teztan Yeqox (Fish Creek).

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