

Report of the Federal Review Panel

**New Prosperity Gold-Copper Mine Project
Taseko Mines Ltd.
British Columbia**

October 31, 2013

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TASEKO MINES LIMITED
BRITISH COLUMBIA**

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EXECUTIVE SUMMARY

Taseko Mines Limited (Taseko) has proposed the development of the New Prosperity Gold-Copper Mine Project (the Project), 125 km southwest of Williams Lake, British Columbia. The Project would entail constructing, operating, and closing a large open pit mine, which would be built over two years and would operate for 20 years. The Project would include an open pit, concentrator facility, support infrastructure, and associated tailings and waste rock storage areas, and the construction of a 2.8-km access road to the mine site. The Project would also include a 125-km power line, and the transport of mine concentrates to an existing concentrate load-out facility near Macalister, British Columbia.

This report presents the results of the federal Review Panel's (the Panel) assessment of the potential environmental effects of the proposed Project. This report has been completed in accordance with the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) and the Panel's Terms of Reference issued by the Minister of the Environment (the Minister). This report addresses the factors identified in the Panel's Terms of Reference and sets out the rationale, conclusions and recommendations of the Panel, including proposed mitigation measures and follow-up programs.

Taseko had submitted a previous project, known as the Prosperity Gold-Copper Mine project (original Prosperity project) which was subject to an environmental assessment under *British Columbia's Environmental Assessment Act* and a federal review panel under the former *Canadian Environmental Assessment Act*. In January 2010, the Government of British Columbia issued an environmental assessment certificate for the original Prosperity project concluding there would be significant adverse environmental effects on fish and fish habitat but that those significant effects were justifiable in the circumstances.

In July 2010, the previous panel concluded that the project as proposed would result in significant adverse environmental effects. In November 2010, the Government of Canada accepted the previous panel conclusions and determined that the significant adverse environmental effects could not be justified under the circumstances. The Government of Canada indicated that its decision did not preclude the proponent from submitting a project proposal that addressed the factors considered by the panel.

Following the Government of Canada decision, Taseko revised its mine proposal to address the factors identified by the previous panel and submitted the New Prosperity Gold-Copper Mine Project for review. The most important change implemented by Taseko in its new proposal was the preservation of Fish Lake (Teztan Biny) and portions of its tributaries. This outcome would be achieved primarily by relocating the tailings storage facility 2.5 km upstream of the lake and by introducing a lake recirculation water management scheme. Taseko stated that the redesign would enable future generations to use these waters for navigation, fishing and recreational activities and would also mitigate the effects on the cultural heritage and on the current use of the lands and resources by Aboriginal peoples. The area disturbed by the new mine development plan would also be reduced by 23% compared to the original proposal. Taseko has also proposed to implement additional measures to assist in the protection of the region's grizzly bear population.

Taseko focused its assessment on those aspects of the Project that had changed or were new from the previous project proposal. There were no changes in the Project design for the transmission line, the existing rail load-out facility or the road access.

The mine site would cover an area of approximately 27 km² in the Fish Creek (Teztan Yeqox) watershed. The watershed, which drains into the Taseko River (Dasiqox), consists of Fish Lake (Teztan Biny), Little Fish Lake (Y'anah Biny) and the surrounding area called Nabas. The area was characterized as a recreational area as well as an area used by Aboriginal peoples for many traditional activities and cultural practices. The mine site would involve the permanent loss of Little Fish Lake and its surrounding area from the placement of a 12 km² tailings storage facility, which consists of 7.8 km of earth-rock filled dams up to 115 m high. To make up for the reduction in tributary flow to Fish Lake and to ensure Fish Lake is preserved as a viable ecosystem, Taseko proposed to recirculate Fish Lake water during operations and into closure, until the tailings storage facility lake water is of suitable quality to be released to Fish Lake. The development redesign for New Prosperity would increase the capital cost by \$300 million to an estimated total of \$1.0 billion dollars. Taseko submitted a fish and fish habitat compensation plan to compensate for the loss of fish habitat in Upper Fish Creek and Little Fish Lake and the temporary reduction in water flows to Lower Fish Creek.

The Project would be located in the Cariboo-Chilcotin Regional district, a sparsely populated, rural region with Williams Lake as the regional service centre. The economy within the local study area was reported to be heavily dependent on forestry and mining. According to Taseko, the Project would be expected to create 550 direct jobs and 1280 indirect over its expected 20 years of operation. Taseko estimated that annual government revenues would be \$26.2 million during construction and \$48.4 million during operations and would continue for the life of mine operations, exceeding 1 billion dollars.

The Aboriginal groups that would be affected by the Project are the Tsilhqot'in and Secwepemc Nations. The Tsilhqot'in traditional territory includes the mine site area, located in the Fish Lake (Teztan Biny) and Nabas areas, as well as the western portion of the transmission line corridor. The Secwepemc traditional territory includes the eastern portion of the transmission line corridor as well as the mine site. The Aboriginal groups have maintained strong opposition to the Project.

The Project is subject to review under the *Canadian Environmental Assessment Act, 2012* and would likely require Fisheries and Oceans Canada, Transport Canada and Natural Resources Canada to issue permits, approvals, authorizations and/or licences pursuant to the *Fisheries Act*, the *Navigable Waters Protection Act* and the *Explosives Act* respectively. In addition, given Taseko had identified the need to use Little Fish Lake (Y'anah Biny) and Upper Fish Creek (Teztan Yeqox) for the disposal of mine waste, including tailings and waste rock, as well as the management of process water, the *Metal Mining Effluent Regulations* would need to be amended to include these water bodies to Schedule 2 and to designate them as tailings storage, if the Project receives the required approvals.

The federal Minister of the Environment appointed the three-member Panel under the former *Canadian Environmental Assessment Act* on May 9, 2012, and the Panel was continued under the new *Canadian Environmental Assessment Act, 2012*. The Panel consists of Dr. Bill Ross (chair), Dr. George Kupfer and Dr. Ron Smyth. The Panel Terms of Reference require the Panel to conduct an assessment of the environmental effects of the Project and to determine the significance of these effects. The Panel was also instructed to accept and review information from Aboriginal groups on how the Project might affect potential or established Aboriginal rights or title within the Project area and to include this information in its report.

During the environmental impact statement (EIS) review, federal and provincial government departments and agencies participating in the review provided views and expertise on the adequacy and technical merit of the EIS and additional information submitted by Taseko as

measured against the EIS Guidelines. The federal departments participated throughout the public hearing, both with written submissions and with presentations by the subject matter experts at the hearing. The provincial government agencies chose to participate by providing written submissions and written responses to questions raised during the hearing. The Panel commends the significant contribution both governments, experts, participants, Aboriginal groups and Taseko made throughout the environmental assessment of the Project.

Taseko submitted its environmental impact statement to the Panel on September 27, 2012 and on June 20, 2013 the Panel determined that the EIS, supplemented by the additional information provided by Taseko, contained sufficient information to proceed to the public hearing. The hearing took place from July 22 to August 23, 2013 in the communities most affected by the Project: Williams Lake, six Tsilhqot'in and two Secwepemc communities. The hearing provided an opportunity for registered interested parties and the public to present their overall views on the Project and its potential environmental effects and for Taseko to present its assessment of the Project and to answer questions from participants. As part of the community hearing sessions the Panel also held two site visits: 1) a site visit near Taseko River (Dasiqox) and at Fish Lake (Teztan Biny), and 2) a site visit at Little Dog, where the proposed transmission line would cross the Fraser River.

The public hearing sessions were well attended, and the Panel was able to hear from most of the participants wanting to present to the Panel. In total, approximately 300 individuals or groups made presentations to the Panel during the various hearing sessions.

This report presents the Panel's conclusions and recommendations and takes into account information obtained during the course of the New Prosperity Project review as well as information generated as part of the previous review. In accordance with the Panel's mandate. The list of Panel conclusions and recommendations are presented in Chapter 17. The Panel's key conclusions are summarized below. The Panel makes no suggestion as to whether the Project should proceed; that decision will be made by the governments of Canada and British Columbia.

The Panel concludes that the New Prosperity Project would result in several significant adverse environmental effects; the key ones being effects on water quality in Fish Lake (Teztan Biny), on fish and fish habitat in Fish Lake, on current use of lands and resources for traditional purposes by certain Aboriginal groups, and on their cultural heritage. The Panel also concludes there would be a significant adverse cumulative effect on the South Chilcotin grizzly bear population, unless necessary cumulative effects mitigation measures are effectively implemented.

The reasons for these conclusions are summarized as follows:

Water Quality

The Panel has determined, based on strong evidence submitted by government agencies (both Canada and British Columbia) and other participants, that Taseko underestimated the volume of tailings pore water seepage leaving the tailings storage facility and the impacts on water quality caused by recirculation of water within the Fish Lake (Teztan Biny) and Upper Fish Creek (Teztan Yeqox) system. The Panel has also determined considerable uncertainty remains regarding Taseko's contingency plan for water treatment. Again, this conclusion was based on strong evidence submitted by governments and other participants. The Panel has determined that the 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.

Although the seepage mitigation measures proposed by Taseko have the potential to substantially reduce the volume of seepage, the Panel concludes it would not eliminate seepage from entering Fish Lake (Teztan Biny). The Panel concludes the concentration of contaminants of concern in Fish Lake would be considerably larger than Taseko's predictions and that eutrophication of Fish Lake would be a significant problem that is unlikely to be mitigable in the long term.

Fish and Fish Habitat

The likely significant adverse effects on water quality in Fish Lake and the expected eutrophication of Fish Lake would therefore result in a significant adverse effect on fish and fish habitat in Fish Lake.

Aboriginal Matters

The Tsilhqot'in and Secwepemc currently use the mine site area and the transmission line corridor for traditional purposes and for carrying out of ceremonial and spiritual practices. Fish Lake (Teztan Biny) and Nabas areas are places of unique and special significance for Tsilhqot'in cultural identity and heritage and they have occupied Nabas and used Fish Lake for generations. The Panel heard the Tsilhqot'in concerns about likely burial and cremation sites in the Project area, notably around Little Fish Lake (Y'anah Biny), that were not completely identified in archaeological studies for the previous project. This area would be buried under the tailing storage facility.

Taseko committed to maintain access to Fish Lake for Aboriginal peoples to continue practicing their activities. However, the Tsilhqot'in stated that if the Project proceeds, they would avoid going to Fish Lake because of the disturbance resulting from the presence of a mine, their fears of contamination, and the loss of the spiritual and cultural connections they have with a very special cultural place.

In the Panel's view, the loss of Nabas and the changes to the environment caused by the mine components would reduce the area where the Tsilhqot'in can practice their traditional harvesting activities, disturb burial and cremation sites that are of great importance to them and endanger their ability to sustain their way of life and cultural identity. The Panel has determined that the Project would have adverse effects on the Tsilhqot'in current use of lands and resources for traditional purposes, archaeological and historical sites, and cultural heritage and that these adverse effects could not be mitigated and therefore would be significant.

The Secwepemc stated that the transmission line corridor as proposed would go through their traditional territory, their most important hunting grounds, over important fishing and plant gathering areas, but also through sacred areas notably where the transmission line would cross the Fraser River, which could not be avoided by moving the centreline within the proposed corridor. The Panel recognizes that the proposed transmission line corridor crosses areas of high archaeological potential and significance.

The Secwepemc explained that it is important for their history, culture and identity that they practice their traditional activities and cultural ceremonies and rituals in sacred areas where they have connections with their ancestors. The Panel finds that the presence of the transmission line would constitute an interference with the spiritual nature of the area that would disturb cultural and spiritual activities, and therefore would compromise the Secwepemc cultural heritage.

The Panel recommends that, if the Project proceeds, Taseko be required to consider other feasible alternative routes for the transmission line crossing at the Fraser River, to avoid these areas of cultural significance to the Secwepemc.

If the proposed transmission line crossing at the Fraser River is the only feasible option, the Panel's conclusions on the effects on the Secwepemc current use of land and resources for traditional purposes, cultural heritage, archaeological and historical sites are as follows: one Panel member determines that the proposed Project would result in significant adverse effects; two Panel members determine that, after taking into account the context and temporary nature of the transmission line, these effects would be acceptable and therefore not significant.

Potential or established Aboriginal rights and title

The Tsilhqot'in have proven and asserted Aboriginal rights throughout the mine site area, as well as asserted Aboriginal title. The Esk'etemc and the Stswecem'c Xgat'tem have asserted Aboriginal rights throughout the transmission line corridor and asserted Aboriginal title. The Panel determines that the Project would adversely affect established and asserted rights and title for the Tsilhqot'in and Secwepemc Nations.

Cumulative effect on South Chilcotin Grizzly Bear

The South Chilcotin grizzly bear population has been determined by the province of British Columbia to be threatened. The Panel took this determination to be an indication that the population has undergone significant adverse effects in the past and therefore there is an existing (before any effects of the proposed New Prosperity Project) significant adverse cumulative effect on grizzly bears.

According to Taseko, without additional mitigation measures, the Project would have an adverse effect on grizzly bears in the area. This effect would combine with the effects of previous human activities and exacerbate the existing significant adverse cumulative effect. Taseko proposed to undertake further mitigation measures to reduce the existing cumulative effects. The Panel has determined that if the mitigation measures proposed by Taseko were effectively implemented, the South Chilcotin grizzly bear population would be in better shape after the Project than before the Project; however effectively implementing these measures could be challenging.

The Panel believes that the most challenging task would be to effectively control access on existing roads and trails in the region to restore secure grizzly bear core habitat. The Panel concludes that there is a need to control enough access so that, in combination with the other mitigation measures proposed by Taseko, the Project effects are offset and that the access control measures alleviate some of the cumulative effect.

country food, and there are other areas within the region where country foods are, and could continue to be, harvested. The Panel also notes that Taseko's proposed mitigation measures for wildlife would mitigate much of the effects to country food, and that Taseko remains open to discussing mitigation measures, such as building new, or improving existing, access to harvesting and hunting areas.

The Panel concludes that the Project would result in an adverse, but not significant socio-economic effect, on Aboriginal peoples regarding the harvesting of country food.

14.3 NAVIGATION

14.3.1 Proponent's Assessment

Taseko listed Fish Lake (Teztan Biny) and Little Fish Lake (Y'anah Biny) as the specific water bodies and Fish Creek (Teztan Yeqox) watershed, Fish Creek main stem (divided into 10 reaches), Taseko River, Fraser River, Big Creek (Dediny Qox) and roughly 125 smaller stream crossings as the waterways that would be directly affected by the Project. Taseko indicated that the proposed mine would have little impact on water bodies and waterways with respect to navigation, because the creeks and streams that would be affected by the Project were considered as not navigable.

Taseko reiterated that the Project preserves Fish Lake (Teztan Biny), thus addressing the previous panel finding that the project would have a significant adverse environmental effect on navigation. Taseko stated that the redesign would enable future generations to use these waters for navigation, fishing and recreational activities. Taseko also indicated that the Project's impacts on current land use by Aboriginal and non-Aboriginal people had been reduced.

Taseko acknowledged that the construction and operation of the mine, with its proposed ancillary works and temporary activities would include specific features which could interfere with navigation. Namely, several mine infrastructure components including the TSF main embankment, Fish Lake (Teztan Biny) outlet flow control structures and the open pit might obstruct or adversely affect navigable waters and the public's use of and right to navigate on Fish Creek (Teztan Yeqox), Fish Lake and Little Fish Lake (Y'anah Biny).

Taseko indicated that in the initial construction period, a coffer dam would be placed across Fish Creek (Teztan Yeqox) at the north end of Fish Lake (Teztan Biny) near the natural outlet as part of the Fish Lake flood control dam and had been optimized to avoid impacts on Fish Lake. Taseko demonstrated that the outlet control structures and coffer dam on portions of Fish Creek would result in longer term but site specific and reversible interference with navigation. Taseko said that the affected portions of Fish Creek were considered to be a minor waterways and thus not subject to approval under the *Navigable Waters Protection Act*.

Taseko also suggested that:

- the public's right to navigate on portions of Fish Creek (Teztan Yeqox) upstream of the inlet of Fish Lake (Teztan Biny) would be enhanced due to water management operations and the implementation of fish and fish habitat flow mitigation measures;
- there were no predicted changes to Beece Creek (Bisqox) during operations and would create a positive effect as a result of slight increase in closure and post-closure flows;

- during year 1 of operation, Little Fish Lake (Y'anah Biny) would be infilled and subsequently lost as it would become part of the tailing storage facility.

Initially, Taseko acknowledged that the loss of Little Fish Lake (Y'anah Biny) was unavoidable and would permanently interfere with the public's right to navigate on that water body. However, in subsequent submissions, Taseko insisted that the loss of Little Fish Lake happened once, had a limited duration and that the effect was reversible, not permanent and limited in ecological context.

Taseko also presented information concerning visitor and sport fishery's use of Fish Lake (Teztan Biny) and Little Fish Lake (Y'anah Biny) which was collected during two separate periods: surveys carried from 1995 to 1997 and aerial boat counts conducted during 2006 and 2007. The initial surveys revealed that Fish Lake (Teztan Biny) was frequented by small groups who used the lake for short visits, primarily through July and August and that there was no evidence of use of Little Fish Lake (Y'anah Biny) by non-Aboriginal people. Taseko noted that the subsequent aerial boat count of Chilcotin Region lakes did not observe any boats on Little Fish Lake. Taseko maintained that other than photos submitted by Transport Canada of a canoe being used on Little Fish Lake during a site visit, there was no evidence of any boating on Little Fish Lake.

Having reviewed previous studies on the current use of Little Fish Lake (Y'anah Biny), Taseko concluded that the Tsilhqot'in fished opportunistically for rainbow trout at Fish Lake (Teztan Biny) and Little Fish Lake. Taseko reiterated that the Project would not impair Fish Lake and maintained that there was no observed evidence of the use of watercraft or navigation by anyone on Little Fish Lake. Taseko argued that despite repeated efforts by Transport Canada during the community hearings to establish the use of Little Fish Lake, the information provided by community members did not support the conclusions that Little Fish Lake is currently used for navigation. Taseko reported the limited evidence on the use of Little Fish Lake for navigation as follows:

- Ms. Lulua made a general reference to her parents using a raft for fishing while they lived in Nabas;
- Ms. Setah, Ms. Cook and an unidentified youth referred to children using a raft built by Cecil Grinder while attending a gathering; and
- Ms. Williams said that boats, canoes and rafts were used in Fish Lake (Teztan Biny) and Little Fish Lake (Y'anah Biny) for fishing.

Taseko stated that the 125 km transmission line with its 30-80 m wide transmission line right-of-way would not directly affect navigable waters at the following crossings:

- the 142 m wide Fraser River crossing;
- the 20 m wide Big Creek (Dediny Qox); and
- the approximate 125 unnamed smaller stream

Taseko clarified the final design of the transmission line crossing of the Fraser River would be subject to Transport Canada's review and determination to see if lighting or marking of transmission line structures would be required to meet safety standards. Taseko also noted that in the previous review neither Transport Canada nor the previous panel offered comment or reached any findings or conclusions regarding the environmental effects of the proposed transmission line on waterways.

In response to Transport Canada's concerns about the Project's effects on navigation, namely on Fish Creek (Teztan Yeqox) and Little Fish Lake (Y'anah Biny), Taseko claimed an absence of evidence of the current use of Little Fish Lake and Upper Fish Creek for navigation. Taseko maintained that the limited extent the lake was used in ordinary course of navigation was when rafts were constructed onsite. Taseko further characterized Little Fish Lake as virtually inaccessible, rendering transporting a canoe or boat to the lake difficult and the lake was used on a very infrequent basis for navigation or other cultural purposes.

Taseko acknowledged that there was an impact on potential use to Little Fish Lake (Y'anah Biny) for navigation during operation, but considered the loss of navigation as being of a small magnitude with a limited geographic extent. Taseko contended that impact was temporary as at closure and post-closure, two much larger new bodies of water, the pit Lake and tailings storage facility Lake would be created, substantially increasing navigation opportunities in the watershed.

14.3.2 Views of Participants

Transport Canada explained that the *Navigable Waters Protection Act* ensured the public's right to safe and unobstructed navigation of Canada's waters. Navigable waters would include all bodies of water capable of being navigated by any type of floating vessel for transportation, recreation, or commerce. The purpose of the *Navigable Waters Protection Act* is to minimize interference with navigation on navigable waters and to ensure a balance between the public right to navigate and the need to build structures such as dams, bridges, or docks.

In its review of the available information, Transport Canada identified potential issues with respect to Project's effects on navigation of Fish Creek (Teztan Yeqox), Little Fish Lake (Y'anah Biny) and Beece Creek (Bisqox). Transport Canada expressed concern about the limited information available on the current navigational use by Aboriginal groups and the public.

Some of the outstanding technical information was subsequently provided by Taseko during the hearing. However Transport Canada noted that information gaps remained, which impeded its ability to reach final conclusions on the degree to which the Project would affect navigation.

Transport Canada conveyed that more information was required on the proposed structures and locations of the Project's coffer dams and flood control dams in order to fully assess the potential indirect effects on Fish Creek (Teztan Yeqox) downstream of Fish Lake (Teztan Biny). Transport Canada explained that information pertaining to the use of Fish Creek for navigation and the impacts of the works on navigation as they relate to the exercise of potential or established Aboriginal rights were required to select appropriate mitigation measures or to accommodate for any adverse impacts.

Transport Canada affirmed that the proposed deposition of tailings into Little Fish Lake (Y'anah Biny) as a portion of the tailing storage facility would require Taseko to apply for a Governor in Council Proclamation of Exemption under section 23 of the *Navigable Waters Protection Act*. Transport Canada noted that information and responses presented in the review process by Taseko did not give appropriate attention to Little Fish Lake.

Transport Canada asserted that Little Fish Lake (Y'anah Biny) was navigable and that its destruction by the proposed tailing storage facility would extinguish navigation. Based on its onsite visits and information obtained through the community hearing sessions, Transport Canada insisted that Little Fish Lake was currently used by Aboriginal groups for navigation for the purposes of fishing or setting traps and nets.

Transport Canada emphasized that the information provided during the community hearing sessions indicated that Little Fish Lake (Y'anah Biny) was likely important for Aboriginal groups in conducting traditional activities, some of which were supported by navigation. This information presented during the hearing provided some detail on how the infilling of Little Fish Lake might affect navigation relating to the exercise of a potential or established Aboriginal right. Transport Canada acknowledged the absence of information regarding the frequency or types of navigation currently occurring on the lake.

Transport Canada conceded that Little Fish Lake (Y'anah Biny) did not appear to be an important waterway for navigation by non-Aboriginal people.

Transport Canada submitted that the proposed mitigation measures were not adequate to address the effects to navigation on Little Fish Lake (Y'anah Biny) and adjoining sections of Fish Creek (Teztan Yeqox). These measures did not provide the means for Aboriginal groups to exercise their rights and engage in traditional activities. Transport Canada maintained that the impact of the tailing storage facility on navigation was irreversible and that appropriate mitigation measures for some of the effect might not exist. Transport Canada indicated that it was highly unusual for it to consider the creation of a new lake(s) as a form of mitigation for the loss of navigation.

In its technical analysis submitted to the previous panel, Transport Canada noted that off-site construction of the transmission line crossings over Big Creek (Dediny Qox) and the Fraser River could interfere with navigation. Transport Canada reiterated before this Panel that the statements and conclusions drawn by the department in the previous review had not changed because the design of the transmission line for the New Prosperity Project remained the same.

Transport Canada indicated that it expected to work with Taseko to ensure any impacts on navigation posed by the Project are reviewed and minimized through appropriate mitigation measures.

Representatives of the Friends of Fish Lake expressed concerns and skepticism regarding the ability to maintain water levels in Fish Lake (Teztan Biny) during the different phases of the Project. They questioned the reliability and feasibility of the water pump and circulation system proposed by Taseko. Furthermore, the group feared that, as a result of the potentially high hydraulic conductivity between Fish Lake and the open pit, Fish Lake levels could not be maintained to original levels. They also expressed the view that the loss of navigation in Little Fish Lake (Y'anah Biny) would be significant. It was their understanding that the lake had been used by boats both in the past and present, especially by Aboriginal people.

The Tsilhqot'in National Government provided evidence during the community sessions regarding the recreation, fishing and navigation activities currently undertaken by its members at Fish Lake (Teztan Biny) and Little Fish Lake (Y'anah Biny). More specifically, Ms. Linda Smith from Yunesit'in provided a written submission during the hearing which included pictures of a community member on a raft and of another carrying a rainbow trout at Little Fish Lake. Furthermore, Ms. Smith indicated that a number of Tsilhqot'in community members would raft, canoe or boat on Little Fish Lake to hunt moose or fish for rainbow trout. During the community hearing, several Tsilhqot'in participants mentioned that if the proposed mine were to proceed, they would no longer visit or navigate on Fish Lake and could not use Little Fish Lake.

14.3.3 Panel's Conclusions and Recommendations

In reaching its conclusions on the effects of the Project on navigation, the Panel considered the following factors to be particularly relevant:

- Navigation would no longer be possible in Little Fish Lake (Y'anah Biny) and portions of Fish Creek (Teztan Yeqox).
- The Panel agrees that navigation in Little Fish Lake appears to be modest.
- Navigation in the Taseko River (Dasiqox), Fraser River, Big Creek (Dediny Qox) and roughly 125 smaller stream crossings were not predicted to be affected by the transmission line.
- Taseko proposes to mitigate the loss of navigation in the Fish Creek watershed by providing additional recreational and Aboriginal access points to the tailings storage facility and the pit lakes at appropriate times post-closure and to enhance access to other navigable lakes as part of the fish habitat compensation plan.
- Transport Canada indicated that mitigation measures have not adequately addressed effects on Aboriginal people who currently navigate on Little Fish Lake.
- Transport Canada indicated that the effect of the tailings storage facility on navigation within the Project area is irreversible and mitigation measures may not exist.
- Tsilhqot'in community members indicated that their current use of both Fish Lake (Teztan Biny) and Little Fish Lake to recreate, fish, hunt and for cultural purposes would be lost.
- The Panel accepts that Aboriginal peoples ability to navigate in the Little Fish Lake area will be extinguished by the Project, which is an environmental effect under section 5(1)(c) of CEAA 2012.

The Panel notes Transport Canada's concerns about the Project, namely that the tailings storage facility would interfere with navigation and that suitable mitigation to compensate for these losses may not exist. The Panel agrees with Transport Canada's assertion that Little Fish Lake (Y'anah Biny) is likely important for Aboriginal people in conducting traditional activities, some of which are supported by navigation. The Panel accepts Transport Canada's view that the Project's effects on navigation on Little Fish Lake and portions of Fish Creek (Teztan Yeqox) would be irreversible but are small in magnitude with a limited geographic extent. As a result, the Panel determines that the Project would have an adverse but not significant effect on navigation.

The Panel accepts the information provided during the community hearing sessions indicates that Little Fish Lake (Y'anah Biny) is likely important for Aboriginal people in conducting traditional activities, some of which are supported very modestly by navigation. The Panel also accepts that Aboriginal peoples will have less ability to navigate in the area around Little Fish Lake for traditional purposes.

The Panel accepts that Transport Canada will ensure any effects on navigation posed by the Project are minimized through appropriate mitigation measures.

The Panel concludes that the Project would not result in a significant adverse effect on navigation.

RECOMMENDATION 27

The Panel recommends that, if the Project proceeds, Taseko be required to hold joint discussions with Transport Canada and Aboriginal groups to determine whether access to other navigable lakes would be acceptable as part of the fish habitat compensation plan and if so, to determine the measures to be developed to minimize the environmental effects of increased access to navigation and related fishing opportunities to these other sites.