

Canadian Environmental Assessment Agency

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Taseko Mines Ltd. proposed Prosperity Gold-Copper Mine Project



Submission to the Federal Review Panel

**By Grand Chief Stewart Phillip, President of the Union of B.C. Indian Chiefs, as part of
the Tsilhqot'in National Government's Closing Submissions**

The Union of B.C. Indian Chiefs is honoured to have been invited by the Tsilhqot'in National Government to share in these closing comments to the Federal Review Panel hearing on Taseko Mines' proposed Prosperity Gold-Copper Mine Project.

In earlier submissions, the UBCIC outlined how Indigenous peoples, cultures and economies can be a hidden casualty of mines which are sited on our homelands, and highlighted that the cultural and socio-economic environmental impacts on the Tsilhqot'in Nation, and other Indigenous peoples, of the Prosperity Mine project will be severe and cannot be mitigated or compensated.

In these closing submissions, we would like to address four socio-economic issues which have been raised before this Panel:

1. **Public comments made by Taseko** deriding the Indigenous actions to protect the lands and territories;
2. The **United Nations Declaration on the Rights of Indigenous Peoples**;
3. The suggestion that the concerns raised by Indigenous Peoples', and particularly by the Tsilhqot'in National Government and others directly impacted by the Prosperity Mine project can be addressed by a **Revenue or Benefit sharing agreements**; and
4. Highlighting **concerns with the Environmental Assessment process** in general and the failure to take into account Indigenous Peoples' Title, Rights and continued right to exist and thrive as unique, distinct Peoples whose cultures are tied to the lands and waters.

Denigrating and unacceptable comments directed by Taseko at Indigenous Peoples' who are fighting to protect Teztan Biny, other areas of Tsilhqot'in territory and the indigenous fishery on the Fraser River.

Taseko has publicly derided efforts to protect Tsilhqot'in traditional lands as "activist strategies"- we would like to stress that such language is offensive and demonstrates Taseko's complete lack of understanding of Indigenous culture and responsibility to protect our sacred lands and waters.

Indigenous Peoples' cultures are integrally linked to the lands, waters and resources of our territories. The preservation and protection of water is crucial to the survival of Indigenous Peoples and cultures; further, water rights are essential to support hunting, trapping, fishing, the production of food, the economic development of the land, and as a part of the spiritual existence of Indigenous Peoples.

It is not acceptable that these sacred responsibilities should be subject to public derision by Taseko, and highlights the inability of this proponent to appreciate, much the less respond to or mitigate the damages that their proposed project will have on the environment and Indigenous peoples who rely upon the lands and waters.

United Nations Declaration on the Rights of Indigenous Peoples

The UBCIC Chiefs Council has actively supported the Tsilhqot'in in their steadfast fight to protect their territory by opposing the draining of Teztan Biny by Taseko Mines. Though Taseko has publicly questioned the utility of the *United Nations Declaration on the Rights of Indigenous Peoples*, the Declaration sets out international standards for relationships between Nation states and Indigenous Peoples. The international standards set out in the Declaration provide valuable guidance for this Review Panel. In particular, we direct your attention to the following Articles:

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources;
2. States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources;
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

We urge the Panel to hold the Provincial and Federal governments to the standards set out in the Declaration, and to consider these standards in making recommendations about the Prosperity mine.

Revenue Sharing proposals

In earlier submissions, B.C. has stated that Revenue Sharing, or an impact-benefit agreement would be made available and offer a viable solution to the environmental destruction that the Prosperity mine project will pose. The province's Revenue Sharing policy is hollow, lacks substance and does not address the concerns of Indigenous peoples' that are aimed at environmental protection and preservation.

Revenue sharing proposals assume that projects will go ahead, and that money can adequately compensate for the cultural, spiritual, and traditional economic loss that Indigenous Peoples will suffer. The Tsilhqot'in have been very clear that the cultural losses that they will suffer cannot be compensated.

Discussions about revenue sharing are only appropriate after the environmental and social-cultural concerns have been addressed. In a situation such as this, where the environmental destruction of a project is so severe – such as the complete destruction of Teztan Biny – offers of revenue sharing cannot address or compensate for those cultural and social losses. There are some situations in which the preservation of the environment and ecosystem must be paramount, and that is the decision and recommendation that we are urging this Federal Review panel to make.

The Tsilhqot'in Nation has stated that it is not interested in revenue sharing in exchange for agreeing to the destruction of Teztan Biny, yet Taseko falsely relies on B.C.'s unsanctioned and unimplemented resource revenue sharing policy to argue that the Tsilhqot'in will benefit "disproportionately" from Prosperity Mine.

On October 22, 2008 the province unilaterally announced that provincial negotiators were authorized to include revenue sharing with First Nations on new mining projects only; this policy was developed without consultation with First Nations, and no further details have been officially released or implemented in B.C. The initial provincial announcement stated that the process for developing revenue sharing would be decided on a project-by-project basis, and

that the revenue sharing approach is to be used where there is a proposed project that will result in a new stream of direct resource revenue to the Province (i.e. no existing projects will be eligible). In practice, this policy has yet to be implemented on the ground, would not apply in this instance, and as we have outlined above is not appropriate to a circumstance such as this where the proponent proposes the outright destruction of a fishery and landscape (such as Taseko proposes to do to Teztan Biny)

The UBCIC has identified numerous problems with the provincial revenue sharing policy, and chose to endorse the BC First Nations Mineral Exploration and Mining Action Plan. This Action Plan calls for recognition of Aboriginal Title and Rights, and implementation of standards of free, prior, and informed consent in decision-making about mines being sited on Indigenous peoples' territories, as well as revenue and benefit sharing.

We emphasize the absolute inappropriateness of Taseko's suggestion that a pay-off in the form of revenue sharing with the Tsilhqot'in is an adequate replacement for destruction of traditional territory, and a fishery, which is of profound spiritual and cultural importance to the Tsilhqot'in people.

The position taken by Taseko highlights the fundamental difference on key issues- as Indigenous Peoples, the Tsilhqot'in are determined, and charged with the duty, to protect and preserve Teztan Biny and their peoples' ancient and abiding connection to this lake.

Why a unilateral “harmonized” Environmental Assessment process is not acceptable

The UBCIC were deeply shocked at a recent announcement from Ottawa granting federal Environment Minister Jim Prentice authority to “harmonize” Provincial and Federal Environmental Assessment (EA) processes for efficiency, thus circumventing full assessments of extremely controversial projects such as Taseko's proposed Prosperity Mine.

Although we agree that current Provincial and Federal EA processes are fatally flawed, revision without involvement of Indigenous Peoples will be ineffective and further compound existing deficiencies within the EA process. The “harmonization” that Canada has proposed will only deepen the deficiencies of the current EA processes which fail to address Indigenous Title and Rights, and the relationship that Indigenous Peoples have with the lands, waters and resources of their traditional territories. Continuing down this path will only increase the already lengthy delays in consideration of projects such as Prosperity mine.

The UBCIC Chiefs in Assembly endorsed reforming the B.C. EA process as outlined in the discussion paper titled, *Environmental Assessment and First Nations in B.C.: Proposals for Reform*, prepared by the First Nations Energy & Mining Council. Importantly, this proposal has mandatory Indigenous participation, calls for transparency from all parties, and will result in sustainable and accountable projects. Unlike the “harmonized” EA process, this proposal respects and acknowledges Indigenous Title and Rights.

The “harmonized” EA process does not address the rights and title of the Tsilhqot’in Nation, and their desire to preserve Teztan Biny from destruction.

Conclusion:

Through the *New Relationship* commitments, the B.C. government promised “to ensure that lands and resources are managed in accordance with First Nation laws, knowledge and values and that resource development is carried out in a sustainable manner including the primary responsibility of preserving healthy lands, resources and ecosystems.” This commitment needs to be upheld and honoured, and we urge this Panel to reflect its spirit in your recommendations.

In closing, the UBCIC and its member Nations and communities remain resolute in our steadfast support of the Tsilhqot’in Nation in their momentous struggle to protect Teztan Biny

(Fish Lake) from destruction by Taseko Mines. DFO's policy of "no net loss" that is proposed to be applied to the destruction of Teztan Biny is utterly and completely unacceptable and fool hardy. What supporters of this proposal attempt to call "no net loss" is in fact the complete destruction of fish bearing habitat and waterways that will significantly impact Indigenous Peoples.

We urge the Panel to take the United Nations *Declaration on the Rights of Indigenous Peoples* as a framework for how the Federal and Provincial governments must conduct themselves in relation to Indigenous Peoples'. These international standards cannot be disregarded because they are not convenient; they represent international standards of justice and fairness. Despite Taseko's confident presentations, the Tsilhqot'in are not willing to engage in revenue sharing in exchange for destruction of Teztan Biny. The cultural and social losses, as well as losses to their traditional economy, cannot be compensated.

B.C.'s resource revenue sharing policy is in fact not endorsed by Indigenous Peoples in B.C., and has yet to be realized in practice.

Rather than accept a unilateral "harmonized" Federal and Provincial Environmental Assessment process, we call on the panel to review the discussion paper, *Environmental Assessment and First Nations in B.C.: Proposals for Reform* in order to gain an understanding of how to achieve necessary reforms to the EA process. Acceptance of this process increases the inevitable likelihood of triggering emotionally charged backlash and acrimonious disputes which will only serve to disrupt projects.

In closing, we urge this Review Panel to recommend that the Prosperity mine will cause significant adverse environmental effects, including cultural losses to Indigenous Peoples that cannot be justified.