

## 1.2 GUIDING PRINCIPLES

The EIS Guidelines outline a number of principles to guide the preparation and content of this EIS. The principles adopted and incorporated into this EIS are discussed Sections 1.2.1 through 1.2.4.

### 1.2.1 Environmental Assessment as a Planning Tool

This EIS, in a manner consistent with the purposes of environmental assessment outlined in the EIS Guidelines, identifies the possible environmental effects of the Project, proposes measures to mitigate adverse effects, and assesses whether there will be likely significant adverse environmental effects after mitigation measures are implemented.

### 1.2.2 Community Knowledge and Aboriginal Traditional Knowledge

Section 16 of the *Canadian Environmental Assessment Act* sets out a variety of factors that must be included in an environmental assessment.

In addition, section 16.1 indicates that "community knowledge and aboriginal traditional knowledge may be considered in conducting an environmental assessment".

The EIS guidelines require the proponent to incorporate community and aboriginal traditional knowledge to which it has access or which is acquired through consultation activities and appropriate due diligence.

Determining what exactly falls within the term "community knowledge and aboriginal traditional knowledge" is extremely difficult. The act does not provide any definition of this term, and the Canadian Environmental Assessment Agency has developed only "interim principles" for guidance. (See <http://www.ceaa.gc.ca/default.asp?lang=En&n=4A795E76-1>). And even those are of limited assistance.

The document states, in part:

This principles document is intended to provide general guidance on the consideration of aboriginal traditional knowledge (ATK) in EA. It has been written specifically for EA practitioners. The principles are voluntary and are not intended to replace any existing legislative process or requirements. They are intended to provide a framework for the consideration of ATK, where it has been determined that the provision of ATK is both desirable and appropriate.

These are interim principles. They will be replaced by more detailed guidance that will be developed by the Aboriginal Advisory Committee (AAC), a body that will be established by the Canadian Environmental Assessment Agency...

Although there are many different definitions of ATK in the literature, there is no one universally accepted definition. For this reason, a definition of ATK has not been provided in this document.

To date, it does not appear that any more detailed guidance has in fact been developed, nor has a general definition been developed.

The previous panel report does not provide any additional clarity on this matter as no clear definition was provided or applied by the previous panel.

However, the EIS Guidelines state that, for the purposes of this assessment, the term should be understood to refer to knowledge acquired and accumulated by a community or aboriginal community, through generations of living in close contact with nature. This again is a very general description but Taseko has taken an all-inclusive approach that assumes community knowledge and aboriginal traditional knowledge could include all of the following:

- Knowledge related to ecosystems and their function
- Knowledge relevant to asserted or established aboriginal rights and title (which is relevant to the Crown's duty to consult and accommodate independent of the terms of the *Canadian Environmental Assessment Act*), and
- Knowledge related to current use of land and resources for traditional purposes by aboriginal people.

In addition to the information on traditional knowledge Taseko gained through engagement efforts and included in the 2009 EIS submission in Volume 8, Section 2.4 (Traditional Knowledge and Traditional

Land Use), Taseko has conducted an extensive review of the transcripts of the previous panel review and incorporated all information related to community and traditional knowledge as noted. Summaries of the transcripts have been provided in the Appendices to Section 2.5.1 (Aboriginal Consultation).

Comprehensive archaeological assessments have been completed for the pit, Fish Lake, and TSF project areas with First Nations participation and is presented in the 2009 EIS submission in Volume 7 (Archaeological and Heritage Resources), as well as in Section 2.6.3.1 (Existing Environment) and 2.7.4.1 (Impact Assessment) of this EIS.

Knowledge related to current use of land and resources for traditional purposes by aboriginal people is discussed in Section 2.6.4. is summarized in the 2009 EIS submission in Volume 8, in particular Section 2.4 (Traditional Knowledge and Traditional Land Use), as well as in Section 2.6.4 (Existing Environment) of this EIS, supported further by two Ethnography study reports and the summaries of the panel transcripts which have been provided in the Appendices to the 2012 EIS submission.

Knowledge relevant to asserted or established aboriginal rights and title is discussed in Sections 2.5.1, 2.6.4, and 2.7.5.

Taseko believes that the most important aspect of community knowledge and aboriginal traditional knowledge with respect input to a determination of significant adverse effect on the environment is that information related to ecosystems and their function.

In developing this EIS, the proponent has relied primarily on information presented in the previous EIS supplemented by information that the previous panel identified as constituting community knowledge and aboriginal traditional knowledge, or which it referred to using similar terminology.

The information with respect to ecosystems and their function provided by aboriginal groups relates mainly to identifying specific wildlife and plant species of interest in the area as well as fish. Examples include:

Vegetation: Crowberry (*Empetrum nigrum*), Blueberry (*Vaccinium myrtilloides*), Labrador Tea (*Ledum glandulosum*), and Balsam (*Veratrum viride*)

Wildlife: Cougar (*Felis concolor*), Fisher (*Martes pennant*), squirrel (*Tamiasciurus hudsonicus*), Marten (*Martes americana*)

This information is included, where applicable, in the discussion of each of the Valued Ecosystem Components (VECs) in Section 2.7.

### 1.2.3 Sustainable Development

The term sustainable development is defined in the CEAA to mean "development that meets the needs of the present, without compromising the ability of future generations to meet their own needs."

The EIS Guidelines require that the proponent demonstrate how the project, including the alternative means of carrying out the project, meets this test. In particular, the proponent is required to take into account the relations and interactions among the various components of the ecosystems, including the extent to which biological diversity may be affected by the project.

These matters are discussed in more detail in the discussion of relevant VECs in this EIS. In summary form, the project is not expected to compromise the ability of future generations to meet their own needs, for the following reasons:

- After evaluating 14 VECs and 26 Key Indicators this EIS has concluded that the proposed Project will not have any significant adverse environmental effects. These evaluations took into account the relations and interactions between ecosystem components including the extent to which biological diversity may be affected.
- While the Project will result in the depletion of this particular ore body that will be extracted through mineral development, there are extensive areas of mineralogical interest in British Columbia, and dozens or perhaps hundreds of mineral claims that are the subjects of further exploration. There is no evidence to suggest that depletion of this particular mineral ore will in any way materially impair the ability of future generations of British Columbia's to identify and develop mineral deposits necessary for their own use, although the ability to economically develop any particular mineral reserve will depend upon prevailing economic conditions and relevant regulations.
- The Project will substantially enhance the long-term social and economic viability of local communities, through training, employment, support for local businesses and development of community infrastructure. Even after mine closure, social and economic benefits will continue through the skills that have been obtained, the local infrastructure that has been improved through payment of local taxes, and the diversification of businesses within the regional economy. Of particular consequence, the Project will provide major economic benefits during a period of time for which forestry in the region will continue to suffer from pine beetle kill.
- While the previously proposed project would have resulted in the loss of Fish Lake and a requirement to transplant fish from the lake into another water body, that is no longer required under the New Prosperity proposal. While the Project will eliminate a much smaller water body (Little Fish Lake) that water body does not contain a biologically distinct body of fish, as it is not capable of sustaining fish throughout the winter, and instead fish move between that area and other habitat. Further, additional fish habitat will be created as compensation. Tsilhqot'in people will continue to be able to utilize Fish Lake during the construction, operations, closure and post-closure phases of the mine.
- The Project will realize economic benefits and other social development opportunities that are strongly supported by many members of the community, local governments and local businesses.
- These lasting gains, which are discussed further in Section 2.7.3, will significantly outweigh any trade-offs that result from development of the mine, given that the Project is not expected to have any significant adverse effects, and given the mine closure and post-closure plans which will ensure minimal impact remains after the mine life has ended.

#### 1.2.4 Precautionary Principle

The EIS Guidelines state that the precautionary principle provides that in situations where scientific knowledge is incomplete, but there is a threat of serious adverse consequences, the lack of full certainty or harm shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

This description is slightly different from the federal government's own Framework for the Application of Precaution in Science-based Decision Making About Risk (2003) which the EIS Guidelines refer to. The federal government's Framework document states, in part:

The application of "precaution", "the precautionary principle" or "the precautionary approach" recognizes that the absence of full scientific certainty shall not be used as a reason for postponing decisions where there is a risk of serious or irreversible harm.

Governments can rarely act on the basis of full scientific certainty and cannot guarantee zero risk. Indeed, they are traditionally called upon and continue to address new or emerging risks and potential opportunities, and to manage issues where there is significant scientific uncertainty.

... [E]ven though scientific information may be inconclusive, decisions will still have to be made as society expects risks to be addressed and managed and living standards enhanced.

Throughout this EIS, mitigation measures are proposed in relation to a wide range of potential adverse effects for valued ecosystem components. In many of those cases, these mitigation measures are being proposed notwithstanding the fact that there is not complete certainty that an adverse effect would occur or that it would be serious. In no part of this EIS does Taseko decline to propose appropriate mitigation measures simply because there is a lack of certainty that harm would otherwise result. As such, and for reasons noted throughout this EIS, the precautionary principle, as properly understood, has been fully respected.

The EIS guidelines go on to state, still in section 1.2.4 concerning the precautionary principle, that in determining whether the project is likely to cause significant adverse environmental effects, the proponent shall:

- Demonstrate that all aspects of the Project have been examined and planned in a careful and precautionary manner in order to ensure that they do not cause serious or irreversible damage to the environment and/or the human health of current or future generations
- Outline and justify the assumptions made about the effects of all aspects of the Project and the approaches taken to minimize these effects
- Evaluate alternative means of carrying out the Project and compare in light of risk avoidance, an adaptive management capacity
- In designing and operating the Project, demonstrate that priority has been given to strategies that avoid the creation of adverse effects
- Develop contingency plans that explicitly address accidents and malfunctions
- Identify any proposed follow-up and monitoring activities, particularly in areas where scientific uncertainty exists in the prediction of effects or effectiveness of proposed mitigation measures

- Discuss how the design of monitoring programs will ensure rapid response and correction where adverse effects are detected, and
- Present public views on the acceptability of all of the above.

It is not clear how these directions relate to the standard methodology for assessing whether a project is likely to cause a significant adverse environmental effect, as set out in the CEEA document entitled Reference Guide: Determining Whether A Project is Likely to Cause Significant Adverse Environmental Effects - The Requirements of the Canadian Environmental Assessment Act (<http://www.ceeaa-acee.gc.ca/default.asp?lang=En&n=D213D286-1&offset=2&toc=show>) or the federal government's precautionary principle Framework as discussed above.

In any case, this EIS addresses these requirements in the following ways:

- Demonstrate that all aspects of the Project have been examined and planned in a careful and precautionary manner in order to ensure that they do not cause serious or irreversible damage to the environment and/or the human health of current or future generations.

This is demonstrated by utilizing the standard methodology for assessing significant adverse effects. In the absence of significant adverse effects under the traditional methodology, there will not be serious or irreversible damage to the environment and/or human health of current or future generations.

- Outline and justify the assumptions made about the effects of all aspects of the Project and the approaches taken to minimize these effects

In each case where assumptions are made in the discussion of valued ecosystem components, the assumptions are explained and justified.

- Evaluate alternative means of carrying out the Project and compare in light of risk avoidance, an adaptive management capacity

Alternative means of carrying out the project are considered in section 2.4 and discussed in relation to individual valued ecosystem components as applicable.

- In designing and operating the Project, demonstrate that priority has been given to strategies that avoid the creation of adverse effects

This requirement is addressed, in the most fundamental way, through the overall design of the new prosperity project, which is intended specifically to avoid the significant adverse effects that the previous panel found would likely have occurred in relation to the previously proposed project. This requirement is also fulfilled through the discussion the project description and proposed mine plan, as well as in consideration of individual valued ecosystem components.

- Develop contingency plans that explicitly address accidents and malfunctions

These issues are addressed in section 2.7.6.

- Identify any proposed follow-up and monitoring activities, particularly in areas where scientific uncertainty exists in the prediction of effects or effectiveness of proposed mitigation measures

These activities and proposed mitigation measures are discussed in various contexts in the discussion of individual valued ecosystem components and in Section 2.7 and in Sections 2.8.1 and 2.8.3.

- Discuss how the design of monitoring programs will ensure rapid response and correction where adverse effects are detected, and

These programs are discussed in various contexts in the discussion of individual valued ecosystem components and in Section 2.7 and in Sections 2.8.1 and 2.8.3

- Present public views on the acceptability of all of the above.

The requirement to report on “the public views on the acceptability of all of the above” is a very vague one, and further, it is not clear how it relates to the panel’s mandate under the *Canadian Environmental Assessment Act* to the assessment whether the project is likely to have significant adverse effects having regard to mitigation measures that will be employed.

In any case, this EIS contains extensive information about public views on matters within the scope of this EIS (based mainly on information obtained from the prior panel process), and additional information regarding the public view’s regarding all matters within the panel’s mandate will be obtained during the panel hearings.