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Dr. Bill Ross
Chair Federal Review Panel - New Prosperity Project
Canadian Environmental Assessment Agency
160 Elgin Street
Ottawa, Ontario
K1A 0H3

Dear Dr. Ross, Dr. Kupfer, and Dr. Smyth:

On August 21st, Donald MacDonald on behalf of the Tsilhqot'in National Government (TNG) provided the Panel with a letter titled "Tsilhqot'in National Government Comments on the Taseko Mines Limited Submission regarding Water Quality Discrepancies" (CEAA document # 1112). In it, Mr. MacDonald makes a number of statements based upon his interpretation of data, evaluations and procedures. Taseko will address each of these statements in the following letter, embedding our response in italics after each of the statements from Mr. MacDonald.

Statement 1) TML has conducted water balance modeling with the best information that the company could generate to support the EA. The results of TNG's review and evaluation of the water balance model demonstrated that the underlying hydrology data and related information were not robust, resulting in numerous uncertainties related to baseline conditions in the vicinity of the proposed New Prosperity mine site. As a result of these uncertainties, TNG concluded that TML's modeling of future hydrological conditions in the vicinity of the site was also highly uncertain. Therefore, it is not possible to determine, with any level of confidence, if and how flows can be maintained within Upper Fish Creek and Tributary 1 in perpetuity. In addition, uncertainties related to hydrology make it challenging to determine the volume of water that will be contained within the Tailings Storage Facility (TSF) at any time during or after mine life. This further uncertainty makes it virtually impossible to determine if or when water can be discharged from the TSF without adversely affecting fish and other aquatic organisms. While it is virtually certain that TML can alter assumptions and generate new water balance models that suggest that post-closure recirculation can be avoided, it is highly unlikely that such models would be any more reliable than the existing models, which already reflect TML's best guesses about future conditions.

Taseko's consultants, SRK and Knight Piesold, conducted the water balance modeling using a very robust data set of measured surface and ground water conditions, numerous test pits and drill holes and also used conservative parameters for forecasted climatic conditions. To characterize this work as Taseko's best guess is intended to undermine the exacting work that has been carried out by some of the most respected hydrogeologists, hydrologists and geotechnical engineers in the industry and the companies that they represent. Contrary to Mr. MacDonald's statements, the conservatism built into the model provides Taseko with the certainty that the water management being proposed will work even in the "worst case" situations. It is the "worst case" situation that generates the scenario for post closure recirculation. An analysis by the Panel's independent experts has confirmed the work carried out by Taseko's consultants is appropriately done and provides a good correlation with expected results. Taseko will continue to use a conservative approach post EA during the refinement of the water management system. The avoidance of post closure recirculation will <u>not</u> be achieved through the altering of assumptions but rather through engineering of the surface water facilities to eliminate the need for recirculation.

Statement 2) Development of an Aquatic Effects Monitoring Program and an Adaptive Management Plan are expectations for any proponent prior to permitting under the Environmental Management Act or the Mines Act. A commitment to develop a Water Monitoring and Adaptive Management Plan during permitting does nothing to reduce existing uncertainties related to effects of mining activities on Fish Lake and the uses of associated natural resources.

In order to obtain a Mines Act Permit from the Chief Inspector of Mines of BC, an application must be made which outlines the details of the proposed work and provides a program for the protection and reclamation of the land, watercourses and cultural heritage resources affected by the mine. The Chief Inspector of Mines may refer the application to other government agencies, aboriginal groups and any other interested parties for comments if the proposed activities have an impact on those parties. At the EA level, a <u>detailed</u> monitoring and adaptive management plan is not required. Rather a proof of concept plan suffices in order to demonstrate that the concept can be successfully implemented and that the required technology and resources can be obtained and utilized. Taseko has supplied a plan for the purposes of the EA that goes beyond the proof of concept, providing details included in the response to SIR 15/19/25/49a Lake Productivity, Mitigation and Adaptive Management (CEAA document #494) and in the response to the Technical Information Request ahead of Panel Hearings on Lake Productivity, Mitigation and Adaptive Management (CEAA document #641, page 6). The plan demonstrates that there are no technological or economic barriers to its implementation. Taseko has demonstrated that

there are numerous options available that are not only technologically and economically feasible, but are proven to be effective.

Statement 3) TML's commitment to meet B.C. Water Quality Guidelines (WQGs) or another limit for specific substances and water bodies is meaningless. The company has already demonstrated with the results of its optimistic water quality modeling that B.C. WQGs for a number of substances will be exceeded in Fish Lake and other water bodies affected by the proposed water recirculation system. Based on the higher than predicted volumes of seepage from the TSF, water quality conditions in Fish Lake will almost certainly be worse than those predicted by TML. Furthermore, the company has not developed nor tested (even at a pilot scale) a water treatment system that would enable it to meet B.C. WQGs. Beyond that, modeling of the treatment process by Dr. Freed showed that the treatment processes would not be able to achieve the stated results. Therefore, the company has no technical basis for making such a commitment to meet B.C. WQGs.

The water quality modeling carried out by Taseko used conservative input parameters to obtain the predicted concentrations of substances in Fish Lake. It is because of this "worst case" approach that certain parameters are predicted to exceed WQG's if no mitigation measures are implemented. "The higher than predicted volumes of seepage from the TSF" likely refers to the Natural Resources Canada predictions by Dr. Desberats which have been demonstrated to be very similar to Taseko's work and verified by the Panel's independent experts. Because of the conservative nature of the water quality predictions, a factor of safety has been explicitly built into the water quality model. Taseko is fully confident that the water quality that results from this project will fall well below the levels predicted in its conservative model and if any substance does begin to rise in concentration, the monitoring and adaptive management plan will allow the institution of further mitigation measures before any substance exceeds permit guidelines.

The testing of a water treatment system is premature at this stage of the EA process. Taseko has shown that there is existing water treatment technology that is not only readily available but is proven in industrial applications if it should be required. It is at the permitting stage that a water treatment plant may be designed in detail (if required) to be ready to handle any substances which might still be predicted to exceed applicable guidelines following detailed field work and the application of other mitigation.

Statement 4) TML's commitment to assess water treatment systems prior to obtaining a Mines Act or Environmental Management Act permit is too late. The proponent needed to demonstrate during the EA that the project could be developed in a manner that would not adversely affect Fish Lake or the aquatic organisms that utilize habitats within the lake and the associated tributaries. It is not sufficient to defer the environmental assessment to the permitting stage. The water quality assessment submitted during the EA process should have represented the best and final assessment of future water quality conditions in the vicinity of the project. Revised water quality modeling during the permitting stage will do nothing to provide the Panel with the information needed to assess the potential effects of the project. During the hearing, TML clearly demonstrated that it had no clear plan to address water quality issues, including not understanding the steps or timing involved in installing a suitable water treatment plant.

The testing of a water treatment system is premature at this stage of the EA process. Taseko has shown that there is existing water treatment technology that is readily available, economically feasible, and is proven in industrial applications to handle the concentrations of those substances conservatively that have been predicted to exceed guidelines prior to mitigation.

Statement 5) TML's commitments to conduct further geotechnical and hydrogeological site investigations during the permitting stage highlight the inadequacies of the information that the proponent collected to support the EA. Again, all of the information needed to support the EA should have been collected before the EIS was prepared. Failure to do so results in an EA that is shrouded by uncertainty and puts regulators in an impossible position.

The site work carried out in support of the EA is sufficient to provide a proof of concept for the project. Further site investigation would be carried out before detailed design of the tailings storage facility and other geotechnical structures to support permit applications. The expenditure and land disturbance needed to carry out these detailed site investigations is unwarranted at this stage and would only be implemented if the project proceeds to the permitting stage. As noted above, the question at this stage is whether, there are technologically and economically feasible solutions to reasonably likely outcomes and Taseko has demonstrated that to be the case.

Statement 6) In its submission to the Panel, TML referred to the EA of the proposed Kitsault Mine in northwest B.C. More specifically, TML indicated that a commitment by Avanti Kitsault Mines Ltd. to meet B.C. WQGs or site-specific water quality objectives provided the BCEAO with the necessary and sufficient information to determine that the proposed Kitsault Mine would not have significant adverse effects on water quality or sediment quality. What TML failed to mention was that the BCEAO's decision to issue an Environmental Assessment Certificate is currently under judicial review. TML also failed to mention that Kitsault is a brownfields site that is currently contaminating receiving waters and that BCMOE has little security to address the problem. Therefore, the province is highly motivated to encourage redevelopment of the site, even if the redevelopment proposal (as presented in the EA documentation) is not well developed or well considered. Hence, it is prudent to further evaluate the Kitsault situation before relying upon information provided by TML.

It is inappropriate for the TNG to suggest that this Panel should find fault with the New Prosperity project based on the groundless allegation that government agencies having responsibility for permitting and regulatory oversight of such a project will be derelict in their duties. Taseko submits that the Panel should assume that those government agencies will fully carry out their responsibilities and that all statutory and regulatory requirements will be met.

Statement 7) In summary, TML's submission provides a number of commitments to complete work that should have been completed prior to submitting the EIS for the proposed New Prosperity Mine. These commitments come too late to provide the Panel or other interested parties with the information needed to assess the potential effects of the project.

Taseko's submission includes a number of proposed commitments to reduce the inherent uncertainties of detail at the EA stage, and to provide the Panel with additional confidence that, based on work that would be done between EA and permitting, the project is not likely to have a significant adverse environmental effect. As previously noted in Taseko's submission of document #825 (at pages 125-129), the law is clear that EA officials can and should appropriately consider post EA commitments, adaptive management measures and the role of subsequent permitting agencies when making this assessment.