

**IN THE MATTER OF THE ENVIRONMENTAL ASSESSMENT ACT S.B.C. 2002, c.43
(Act)**

AND

**AN ENVIRONMENTAL ASSESSMENT OF THE
AJAX MINE PROJECT (proposed Project)**

ORDER UNDER SECTION 13 AMENDING SECTION 11 ORDER

WHEREAS:

- A. On February 25, 2011 under Section 10(1)(c) of the Act, the Project Assessment Director issued an Order to KGHM Ajax Mining Inc. (Proponent), designating the proposed Project as a reviewable project, requiring an environmental assessment certificate, and ordering that the Proponent may not proceed with the proposed Project without an environmental assessment certificate.
- B. The Executive Director has delegated to the undersigned, powers and functions under the Act, including the power to issue Orders under Sections 11 and 13 of the Act.
- C. On January 11, 2012, the Project Assessment Director issued an Order under Section 11 of the Act, determining the scope of the required environmental assessment and the procedures and methods for conducting the assessment.
- D. Section 1 of the Section 11 Order provides definitions for Schedule A.
- E. Section 12 of the Section 11 Order outlines the Proponent's requirements related to preparing and submitting the Application.
- F. Section 13 of the Section 11 Order describes the requirements related to the assessment of First Nations consultation, including the Proponent's requirements related to providing a summary of consultation with First Nations and a proposal for consultation with First Nations.
- G. Section 15 of the Section 11 Order outlines the Proponent's requirements related to consultation with First Nations and Working Group First Nations.
- H. Section 19 of the Section 11 Order outlines the Environmental Assessment Office's requirements related to consultation with the Proponent, First Nations, Working Group First Nations, and other members of the Working Group in the preparation of the draft Assessment Report.
- I. Section 21 of the Section 11 Order outlines the Environmental Assessment Office's requirements related to consultation with First Nations and Working Group First Nations.

- J. On February 20, 2015, the Stk'emlupsemc te Secwepemc Nation (SSN), who are made up of the Skeetchestn Indian Band and the Tk'emlups Indian Band, requested that the definition of "First Nations" provided in the Section 11 Order be amended to SSN, who represents the traditional division level governance structure.
- K. The Environmental Assessment Office and the SSN have committed to working collaboratively to complete the environmental assessment for the proposed Project, as set out in the Ajax Mine Environmental Assessment Collaboration Plan (EA Collaboration Plan). The collaborative effort is part of a government-to-government process between the SSN and the Provincial Crown regarding the proposed Project and is described in the Ajax Mine Project Government to Government Framework Agreement (G2G Framework Agreement).
- L. The SSN have indicated that they will be undertaking their own community-based assessment process (the SSN Project Assessment Process) to better understand the potential impacts of the proposed Project on SSN's Aboriginal Interests and to meaningfully engage SSN communities. Collaboration points between the SSN Project Assessment Process and the provincial environmental assessment process are described, in general terms, in the EA Collaboration Plan.
- M. The SSN have requested that the Section 11 Order be amended to clarify certain related environmental assessment procedural matters.

NOW THEREFORE:

Pursuant to section 13 of the Act, I order that the Section 11 Order, dated January 11, 2012 be amended as follows:

- (1) Amend the definition of the term "First Nations" as follows:

"First Nations" means Stk'emlupsemc te Secwepemc Nation (SSN).

- (2) Replace section 12.2 with:

The Project Assessment Lead, with advice from First Nations and the Working Group if requested by the Project Assessment Lead, will decide whether to accept the Application in accordance with section 16(3) of the Act. The Project Assessment Lead will meet with the First Nations to seek such advice and provide responses to any outstanding comments or concerns of the First Nations, consistent with the EA Collaboration Plan and the G2G Framework Agreement. If the Application is deficient in presenting the required information in the Application Information Requirements, the Project Assessment Lead will identify the deficiencies in writing and the Proponent will be required to revise the Application to address the deficiencies and re-submit the revised Application.

(3) Replace section 13.3 with:

The Project Assessment Lead will, in consultation with First Nations, consistent with the EA Collaboration Plan and the G2G Framework Agreement, assess the Proponent's past and proposed consultation activities with First Nations identified in the Application. The Project Assessment Lead may, after assessing past and proposed plans, instruct the Proponent to undertake further measures to ensure adequate First Nations consultation during the review of the Application. The Project Assessment Lead will provide First Nations with responses to any outstanding comments or concerns.

(4) Replace section 15.6 with:

Based on the Proponent's report received under section 15.5 of this Order and in consultation with First Nations, consistent with the EA Collaboration Plan and the G2G Framework Agreement, the Project Assessment Lead will determine the adequacy of the Proponent's responses to comments received from First Nations on the Application (including the Proponent's addendum submission as described in the EA Collaboration Plan) and may require the Proponent to implement additional measures for First Nations consultation and accommodation. The Project Assessment Lead will provide First Nations with responses to any outstanding comments or concerns.

(5) Add a new section 19.2.

- 19.2 The Project Assessment Lead will meet with First Nations, consistent with the EA Collaboration Plan and the G2G Framework Agreement, to seek input regarding the following, which will inform the drafting of the Assessment Report:
- 19.2.1 sources of information, including the outcome of the SSN Project Assessment Process;
 - 19.2.2 potential adverse effects on First Nations' Aboriginal Interests;
 - 19.2.3 ways to avoid or mitigate such potential adverse effects;
 - 19.2.4 where effects are not avoidable or mitigatable, how those effects may be otherwise accommodated; and
 - 19.2.5 the appropriateness of the measures described in 19.2.3 and 19.2.4.

The Environmental Assessment Office will provide responses to comments received from the First Nations and rationale should any comments not be incorporated into the final Assessment Report.

(6) Add a new section 21.1.3.

21.1.3 If the First Nations' written submission is provided to EAO by Day 150 of the Application Review period or within 30 days of the anticipated referral date, consistent with the EA Collaboration Plan and the G2G Framework Agreement, the Environmental Assessment Office will provide a written response to the submission. The First Nations' submission may include expressing the First Nations' views on the proposed Project and any of the issues referred to in 19.2.1 to 19.2.5.



Tracy James
Project Assessment Manager
Environmental Assessment Office

Dated April 28, 2016