

# Chief Executive Assessment Officer's Reasons for Decision

IN THE MATTER OF AN APPLICATION FOR AN EXTENSION TO  
ENVIRONMENTAL ASSESSMENT CERTIFICATE #M09-02  
FOR THE PROSPERITY GOLD-COPPER PROJECT (PROSPERITY) BY  
TASEKO MINES LTD.

The following are my reasons for the extension respecting Prosperity that I granted pursuant to Section 31(4) of the Environmental Assessment Act, S.B.C. 2018, c.51.

JANUARY 13, 2020



**EAO**

Environmental  
Assessment Office

## 1.0 NATURE AND SCOPE OF THE DECISION

Under Section 31(4) of the Environmental Assessment Act, 2018 (the Act), on receipt of an application for an extension to Environmental Assessment Certificate #M09-02 (Certificate), I was required to complete a review of the application and the reasons given by the Certificate Holder, Taseko Mines Ltd. (Taseko) for the extension request.

Prior to making a decision under Section 31(4) of the Act, I am required to seek to achieve consensus with participating Indigenous nations pursuant to Section 31(5). I also needed to be satisfied that the Province had met its obligations to Indigenous nations arising from Section 35 of the *Constitution Act, 1982*.

The following section includes the considerations that led to my decision to grant a 12-month extension to the Certificate.

## 2.0 CHIEF EXECUTIVE ASSESSMENT OFFICER'S CONSIDERATIONS

### 2.1. Certificate Extension Report

To assist me in making my decision, the Environmental Assessment Office (EAO) developed a Certificate Extension Report (Report) for my consideration, which included the following:

- Background and rationale for this extension request;
- The EAO's process for reviewing the extension request and engagement with Indigenous nations;
- A summary of the views of Indigenous nations received; and
- The EAO's conclusions regarding the impacts of a potential extension, options and implications.

The EAO advised that as a result of the consensus-seeking process, while three Indigenous nations did not respond with views, none of the Indigenous nations that responded expressed concerns with the issuance of a 12-month extension, and the EAO was satisfied that the Crown's duty to consult with Indigenous nations had been adequately discharged respecting the extension application. I concur with this view.

### 2.2. Key Considerations

#### 2.2.1. Unique Circumstances

On December 12, 2019, the Environmental Assessment Office (EAO) received a joint letter from Taseko and Tâilhqot'in Nation (collectively, the Parties) stating the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity in order to engage in a facilitated process aimed at exploring a long-term resolution of the issues between the Parties relating to Prosperity, acknowledging Taseko's commercial interest and Tâilhqot'in opposition to Prosperity. In the joint letter, the Parties requested that the EAO extend the term of the Certificate for 12 months from its currently expiry date.

The Act allows for the holder of an environmental assessment certificate to apply for an extension of the deadline specified in the environmental assessment certificate under Section 31 (2). However, Section 31(4) of the Act does not allow for more than one extension of the deadline in an environmental assessment certificate. The Certificate for Prosperity was already extended once, in 2015, for five years.

In order to provide the option for me to consider a further extension to the Certificate, a regulation under Section 77(2)(h) of the Act was deposited on December 19, 2019 (the Exemption Regulation No. 2) specifying that the provision of the Act that limits extensions to "one occasion only" does not apply to this Certificate if the deadline is not

extended beyond January 14, 2021. That is, this regulation enables the Chief Executive Assessment Officer under the Act to decide on whether to extend the duration of the Certificate as requested by the Parties for a period of up to 12 months to January 14, 2021.

Given this particular circumstance, where Parties who have long been at odds in relation to Prosperity and have agreed to seek resolution to their differences outside of litigation, the EAO agreed to consider this request.

I place a large importance on the fact that the application for the extension came in the form of a joint letter from Taseko and the T̓ilhqot'in Nation. I am of the view that granting this extension will allow the Parties additional time to work towards a solution to a longstanding disagreement. I consider granting this extension to support the role of the EAO as set out in the Act and be consistent with this government's direction to advance reconciliation with Indigenous nations through relationship building.

### 2.2.2. Impacts on Indigenous Nations

The EAO provided information on the views of Indigenous nations regarding the potential extension. Under Section 31(5) of the Act, I must seek to achieve consensus with participating Indigenous nations with respect to the extension request before making a decision under Section 31(4). While there are no "participating Indigenous nations" defined under the *Environmental Assessment Act, 2002*, I have considered whether consensus was achieved with all Indigenous nations who are being consulted on Prosperity. The EAO noted that while three Indigenous nations did not respond with views, none of the potentially affected Indigenous nations that responded raised concerns, and they explicitly stated they did not object to issuing a 12-month Certificate extension.

### 2.2.3. Other Impacts of the Extension

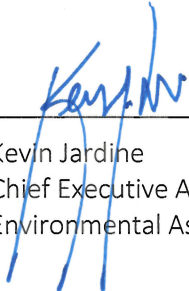
The EAO also considered other potential effects of the extension. The EAO notes that the Certificate extension would not, by itself, authorize any activity to occur and Prosperity remains subject to applicable permits and authorizations that are required before the project could proceed. In addition, the Parties have agreed to a temporary standstill of outstanding litigation and other activities in relation to Prosperity during this time period. The EAO understands this to effectively remove the possibility of any activities taking place on the ground during the standstill. Considering that a period of up to 12 months on the Certificate will allow time for the Parties to engage in a facilitated discussion but not permit Taseko to conduct any work on the ground, the EAO is of the view that the 12 months extension would not result in any new or additional effects. I concur with this view.

### 2.2.4. Potential Future Processes and Timing

I recognize that it is possible that project or process changes may result from negotiations between the Parties during the standstill period. Any such changes would require assessment through an appropriate regulatory review process, which would be determined once any proposed changes are known. Such a review process would include consideration of potential positive or negative environmental, economic, social, cultural and health effects as well as involve further consultation with Indigenous nations. I am, therefore, of the view that adequate regulatory processes exist to address potential effects related to any changes in the project that may originate during the standstill period.

### 3.0 CONCLUSIONS

After consideration of the EAO's Report and the views of Taseko, the T̓silhqot'in Nation and other Indigenous nations, the key considerations as outlined in Section 2 and having regard to my responsibilities under the Act, I have issued a 12-month extension to Environmental Assessment Certificate #M09-02. This option provides the opportunity for the Parties to explore a long-term resolution of the issues relating to Prosperity and supports the government's direction to advance reconciliation with Indigenous nations through relationship building.



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Kevin Jardine  
Chief Executive Assessment Officer  
Environmental Assessment Office

signed this 13<sup>th</sup> day of January, 2020