



***Taseko Mines (TML)  
v The Minister of  
Environment et al***

TML hit another roadblock in the effort to obtain approval for the New Prosperity Gold-Copper Mine Project, an open pit gold and copper mine proposed for construction at Tzetan Biny (Fish Lake).

TML has filed two judicial reviews in respect of this project. In the first, TML challenges the federal review panel's report, which concluded that the project would have "significant", "profound, "irreversible...high magnitude and long-term" impacts on Tsilhqot'in traditional use, cultural heritage and archaeological resources. In the second, TML challenges the Minister's decision that the project was likely to cause significant adverse environmental effects that were not justified in the circumstances. This proposed project does not have the support of the Tsilhqot'in Nation.

After filing these two judicial reviews, TML filed a motion to have them converted into a consolidated court action, in part, on the grounds that it proposes to seek damages against Canada relating to a claim for misfeasance in public office.

On May 11, 2015, the Federal Court rejected TML's motion, holding it was not satisfied that any compelling factors had been established that favoured conversion and consolidation. The court concluded the policy objectives of promoting an expeditious and inexpensive determination of the issues would be frustrated by conversion and consolidation, and that it would set a bad precedent to permit an applicant to "simply tack on a claim for damages in order to benefit from the full panoply of procedural requirements of an action". ❖

**BC Announces Mining Code Review**

On June 24, 2015, the BC Ministry of Energy and Mines announced that it will launch a Code Review Committee to review the province's *Code for Mines*. The review is a response to the seven recommendations made by the panel which investigated the Mount Polley tailings dam failure.

The Code Review Committee, chaired by the Chief Inspector of Mines, will include an equal number or representatives nominated by First Nations, mine labour unions and industry. The Committee will focus on three areas related to tailings storage facilities: (1) implementing best available technologies, including filtered tailings (dry stack) technology; (2) enhancing the validation of safety and regulation of all phases of a tailings storage facility; and (3) improving Dam Safety Guidelines. The Review is expected to take at least one year. The public can submit written comments to the Code Review Committee between July 15 and September 15, 2015.

The Province's announcement comes just weeks after the First Nations Energy & Mining Council's (FNEMC) June 2<sup>nd</sup> report: *Uncertainty Upstream: Potential Threats from Tailing Facility Failures in Northern British Columbia*. As the FNEMC points out, most mining activity in BC happens on land subject to aboriginal land claims, and a tailings dam failure would have a disproportionately negative effect on First Nation communities. It remains to be seen whether the BC Government will embrace FNEMC's key recommendations, such as establishing a framework for resource revenue sharing and creating an emergence fund to reimburse victims of mining disasters. ❖