



No. S=161427  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**TASEKO MINES LIMITED**

PLAINTIFF

AND:

**ATTORNEY GENERAL OF CANADA and  
THE CANADIAN ENVIRONMENTAL ASSESSMENT AGENCY**

DEFENDANTS

### NOTICE OF CIVIL CLAIM

**This action has been started by the Plaintiff for the relief set out in Part 2 below.**

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this Court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the Plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this Court within the time for response to civil claim described below, and
- b) serve a copy of the filed response to civil claim and counterclaim on the Plaintiff and on any new parties named in the counterclaim.

**JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL** to file the response to civil claim within the time for response to civil claim described below.

#### **Time for response to civil claim**

A response to civil claim must be filed and served on the Plaintiff,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,

- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the Court, within that time.

## **CLAIM OF THE PLAINTIFF**

### **Part 1: STATEMENT OF FACTS**

#### **A. The Parties**

1. The plaintiff, Taseko Mines Limited (“Taseko”), is a company incorporated pursuant to the laws of British Columbia with a registered and records office at 1500 Royal Centre, 1055 West Georgia Street, Vancouver, British Columbia.
2. The defendants, the Attorney General of Canada and the Canadian Environmental Assessment Agency (the “Defendants”), are named in respect of the actions of their agents, employees, and servants, including but not limited to:
  - (a) the Honourable Leona Aglukkaq, former Minister of the Environment;
  - (b) Dr. Colin Carrie, former Parliamentary Secretary to Minister Aglukkaq;
  - (c) Ron Hallman, President of the Canadian Environmental Assessment Agency (“CEAA”);
  - (d) Bob Hamilton, former Deputy Minister of Environment Canada;
  - (e) Yves Leboeuf, former Vice-President, Operations, CEAA;
  - (f) Candace Anderson, Rachel Van Deventer, and Bruce Morgan, employees and agents of CEAA;
  - (g) Serge Dupont, former Deputy Minister of Natural Resources Canada;
  - (h) Michael Wernick, former Deputy Minister of Aboriginal Affairs and Northern Development Canada;
  - (i) Matthew King, Deputy Minister of the Department of Fisheries and Oceans; and
  - (j) Louis Levesque, former Deputy Minister of Transport Canada.

(collectively, the “Canada Agents”)

**B. The New Prosperity Gold-Copper Mine Project**

3. The New Prosperity Gold-Copper Mine Project (the “Project”) is a \$1.5 billion open pit gold and copper mine proposed by Taseko, to be located approximately 125 kilometres southwest of Williams Lake, British Columbia. The Project would provide approximately 550 direct jobs and 1280 indirect jobs, and generate average annual increases of \$459 million to the provincial gross domestic product.
4. The Project site is within the province of British Columbia on Crown land. It lies in an area over which the courts have rejected a Tsilhqot’in Nation claim to Aboriginal title.
5. Taseko has a property interest in the mineral resources to which the Project relates in accordance with a mineral lease and mineral claims (collectively, the “Tenures”) duly issued under the *Mineral Tenure Act*.<sup>1</sup> The Tenures entitle Taseko to all minerals located vertically downward within the claims area and the right to use, enter, and occupy the surface area for the exploration and development or production of minerals. The Tenures are routinely renewed by Taseko in advance of their respective expiry dates.
6. Taseko has spent in excess of \$130 million to date developing the Project.
7. In 2010, the province of British Columbia approved a prior version of the Project following an environmental assessment conducted under the *Environmental Assessment Act*.<sup>2</sup> The British Columbia environmental assessment certificate imposed obligations on Taseko to implement various mitigation and monitoring measures.
8. The prior version of the Project was rejected by the federal government in 2010 following a federal environmental assessment conducted under the *Canadian Environmental Assessment Act* (“CEAA”),<sup>3</sup> principally on the basis that it proposed to drain Fish Lake (Teztan Biny). The federal government invited Taseko to submit an alternate project plan.

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<sup>1</sup> RSB 1996, c 292.

<sup>2</sup> SBC 2002, c 43.

<sup>3</sup> SC 1992, c 37.

9. In 2015, Taseko was granted a five-year extension of the environmental assessment certificate issued by the province of British Columbia in 2010. The certificate is currently the subject of an amendment application to reflect the new Project. If the Project has not been substantially started by January 2020, the certificate will expire.

**C. Federal Environmental Assessment under *CEAA 2012***

***Revised Project Description***

10. In August 2011, Taseko submitted a revised project description to reflect the parameters of the New Prosperity Gold-Copper Mine Project.
11. The new Project, which has added costs of over \$300 million, would preserve Fish Lake and portions of its tributaries by relocating the tailings storage facility and introducing a lake recirculation water management scheme. The Project would also reduce the land and water disturbed by the mine by 23 percent in comparison to the prior version.

***Review Panel Hearings***

12. On 7 November 2011, the Minister of the Environment announced that the Project would undergo a new environmental assessment by way of a Federal Review Panel (the “Panel”) established under *CEAA*. The preamble to *CEAA* provides, *inter alia*, that the Government of Canada seeks to achieve sustainable development by “promoting economic development that conserves and enhances environmental quality.”
13. The environmental assessment was continued under the *Canadian Environmental Assessment Act, 2012* (“*CEAA 2012*”), which came into force on 6 July 2012.<sup>4</sup>
14. *CEAA 2012* provides for the federal assessment of environmental effects arising out of changes to land and other components of the Earth. This includes Crown lands, title to which is indivisibly vested in Her Majesty the Queen; components of the environment purported to be within the legislative authority of Parliament; and effects on aboriginal peoples arising out of changes to the environment.

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<sup>4</sup> SC 2012, c 19, s 52.

15. The Panel's terms of reference were issued on 9 May 2012. The Panel was required to consider, *inter alia*, the likely environmental effects of the Project and to submit a report to the Minister of the Environment.
16. The terms of reference were amended on 3 August 2012 upon the coming into force of *CEAA 2012* (the "Amended Terms of Reference"). Pursuant to the transitional provisions of *CEAA 2012*, the assessment was required to be continued as if it had been commenced under the new legislation.
17. Yet the definition of "environmental effect" in the Amended Terms of Reference reproduced the definition of that term in *CEAA*, not *CEAA 2012*. On 14 March 2013 Taseko wrote to then Minister of the Environment, Peter Kent, and requested that the Amended Terms of Reference be revised to reflect the *CEAA 2012* definition. No such revision was effected.
18. The Amended Terms of Reference required the Panel to consider a number of factors. For instance, the Panel was required to consider potential environmental effects, adverse impacts on established or potential Aboriginal rights or title, and mitigation measures. Further, the Panel was explicitly required to assess the need for, and purpose of the Project from Taseko's perspective.
19. As the Project proponent, Taseko had a direct interest in and participated in the environmental assessment process. On 14 September 2012, the Panel also granted "interested party" status to the Tsilhqot'in National Government (the "TNG") and Xenigwet'in First Nations, amongst others (collectively, "Interested Parties").
20. From 22 July 2013 to 23 August 2013, the Panel held 24 days of public hearings in various communities.

### ***The Panel Report***

21. On or about 31 October 2013, the Panel submitted its report regarding the Project (the "Panel Report") to then Minister of the Environment, Leona Aglukkaq (the "Minister").

22. The Panel Report concluded that significant adverse environmental effects were not likely with respect to approximately 33 subject matters, provided appropriate mitigation measures were implemented. These matters included human health, migratory birds, salmon and salmon habitat, wildlife, species at risk, navigation, aboriginal tourism opportunities, trapper licences, old forest and grassland ecosystems, and air quality.
23. The Panel found that significant adverse environmental effects were likely with respect to:
  - (a) water quality in Fish Lake and Wasp Lake;
  - (b) fish and fish habitat in Fish Lake, wetlands, and riparian ecosystems; and
  - (c) Tsilhqot'in current use of lands for traditional purposes, cultural heritage, and archaeological/historical resources.
24. However, the Panel recommended mitigation measures to address the anticipated adverse environmental effects on Tsilhqot'in archaeological and historical resources.

### *The Decision Statement*

25. Pursuant to *CEAA 2012*, the Minister was required to decide whether the Project was likely to result in significant adverse environmental effects, upon having considered the Panel Report, clarifications requested of the Panel, additional information provided by the proponent, and any mitigation measures the Minister considered appropriate.
26. Upon a decision that the Project was likely to cause significant adverse environmental effects, the Minister was required to refer to the Governor in Council the matter of whether those effects were justified in the circumstances.
27. On 26 February 2014, the Minister communicated a decision statement dated 25 February 2014 to Taseko (the "Decision Statement").
28. The Decision Statement contained the following decision of the Minister:

In accordance with paragraphs 52(1)(a) and (b) of *CEAA 2012*, I have decided, after considering the report of the Review Panel on the New Prosperity Gold-Copper Mine Project and the implementation of

mitigation measures that I considered appropriate, that the Designated Project:

- is likely to cause significant adverse environmental effects referred to in subsection 5(1) of CEAA 2012; and
- is likely to cause significant adverse environmental effects referred to in subsection 5(2) of CEAA 2012.

29. The Decision Statement also contained the decision of the Governor in Council, which concluded:

In accordance with paragraph 52(4) of CEAA 2012, the Governor in Council decided that the significant adverse environmental effects that the Designated Project is likely to cause are not justified in the circumstances.

30. As a result of the decisions of the Minister and Governor in Council, Taseko is prohibited from taking any further steps to develop or implement the Project that might cause an environmental effect and cannot obtain any permits from federal authorities that would entitle it to proceed with the Project in whole or in part.

#### ***Cost Recovery Process***

31. During the environmental assessment process, including after the close of the public hearings, Taseko was periodically invoiced by CEAA for recovery of costs related to the environmental assessment of the Project. The invoices totalled more than \$2.2 million.

32. Taseko was billed for, *inter alia*, hours worked and expenses incurred by CEAA staff, including a Crown Consultation Coordinator and Crown Consultation Analyst.

#### **D. Communications between Government Officials and Project Opponents**

33. Between the close of the Panel hearings and the issuance of the Decision Statement, government officials who were involved in advising the Minister and Governor in Council regarding their respective decisions under *CEAA 2012* communicated with, and held numerous meetings regarding the merits of the Project with Interested Parties opposed to the Project, including the TNG, as particularized below.

34. Taseko was not privy to the majority of these communications; was not invited to, did not attend, and was not provided with copies of information exchanged at the meetings; and did not have an opportunity to respond to submissions made by parties opposed to the Project.
35. The Defendants and their agents, employees, and servants owed public law duties of procedural fairness to Taseko at all stages of the federal environmental assessment process, which process affected the rights, privileges, and interests of Taseko. In addition, Taseko expressly requested that government officials keep it apprised of any information arising out of consultations with Aboriginal groups between the close of hearings and the Decision Statement that could adversely affect Taseko's interests, and that Taseko be provided an opportunity to comment on any such information. The Canada Agents failed to do so.
36. In fact, the Canada Agents provided information and submissions obtained from Interested Parties opposed to the Project through communications and meetings not disclosed to Taseko, to the Minister and Governor in Council. The Minister relied on this information to conclude that the Project was likely to cause significant adverse environmental effects. The Governor in Council relied on this information in deciding that the adverse environmental effects were not justified in the circumstances.
37. The Canada Agents or some of them knew that their acts and omissions were unlawful, and the Canada Agents or some of them were subjectively reckless, or willfully disregarded the risk that their conduct was likely to cause harm to Taseko.

***Events between the Close of Hearings and the Panel Report***

38. On a number of occasions between the close of hearings on 23 August 2013 and the release of the Review Panel's report on 31 October 2013, government officials involved in the environmental assessment and decision-making process under *CEAA 2012* met privately with parties opposed to the Project.
39. On 19 September 2013, Chief Joe Alphonse, Chair of the TNG, wrote to Bob Hamilton, then Deputy Minister of Environment Canada to request an urgent meeting in Ottawa



between October 7 to 9, in order for the TNG to set the record straight before the Panel released its report. The TNG made the same request to the Minister.

40. Environment Canada had previously advised the TNG that it would not be appropriate for the Minister to meet with TNG representatives, yet the TNG was nevertheless able to secure just such a meeting. On 8 October 2013, the Minister met privately with Chief Roger William of the Xeni Gwet'in First Nations (a member of the TNG and opponent of the Project) in Ottawa to discuss the Project. Other representatives of the TNG and Project opponents were also present. This meeting was not documented in the Crown consultation log pertaining to the Project.
41. Further, on 9 October 2013, Chief William, TNG officials, and other parties opposed to the Project attended meetings in Ottawa to discuss the Project with the following government officials:
  - (a) Bob Hamilton, then Deputy Minister of Environment Canada;
  - (b) Michael Wernick, then Deputy Minister of Aboriginal Affairs and Northern Development Canada;
  - (c) Louis Levesque, then Deputy Minister of Transport Canada;
  - (d) Matthew King, Deputy Minister of the Department of Fisheries and Oceans;
  - (e) Serge Dupont, then Deputy Minister of Natural Resources Canada;
  - (f) Ron Hallman, President of CEAA; and
  - (g) Yves Leboeuf, then Vice-President, Operations of CEAA.

Some or all of these individuals were involved in advising the Minister and the Governor in Council with respect to their respective decisions regarding the Project under *CEAA 2012*.

42. And, on 10 October 2013, a TNG delegation met with CEAA Crown Consultation Coordinators, the federal working group, and representatives from Transport Canada, Natural Resources Canada, Environment Canada, the Department of Fisheries and

Oceans, and Aboriginal Affairs and Northern Development Canada (“AANDC”), to discuss the TNG’s views of the Project’s impacts.

43. Prior to the Decision Statement, neither the Canada Agents, nor any federal official involved in the environmental assessment process, informed Taseko of the meetings set out in paragraphs 40-42, and Taseko was not provided an opportunity to attend any of these meetings. Federal officials involved in the environmental assessment process did not advise Taseko of the topics discussed or provide it with copies of any submissions made at the meetings, and Taseko was not invited to make its own submissions regarding topics canvassed.

***Events between the Panel Report and the Decision Statement***

44. On 8 November 2013, Taseko wrote to the Minister with respect to her pending decision under *CEAA 2012*. In the letter, Taseko requested that it be advised of and provided an opportunity to make representations with respect to any consultations between government officials and aboriginal groups outside of the Panel process that involved information that could adversely affect Taseko’s interests.
45. On 13 November 2013, then Vice-President, Operations of CEAA, Yves Leboeuf, wrote to Taseko requesting submissions on certain technical matters in the Panel Report. Taseko responded by letter dated 15 November 2013, and enclosed a copy of its November 8 letter to the Minister.
46. Taseko sought, but did not receive, confirmation that the Minister received and considered its November 8 and 15 letters.
47. On 21 November 2013, the TNG made written submissions to Ron Hallman, the President of CEAA, in response to Taseko’s letter of 15 November 2013. The Minister was copied on this correspondence.
48. On or around 9 January 2014, the TNG delivered a 59-page written submission to the Minister entitled “Submissions in Response to the Panel Report.” The submission included information not found in the Panel Report, commented on materials that were

not before the Minister, and impugned the conduct of Taseko. Neither the Minister nor any of the Canada Agents advised Taseko of the TNG's written submission and Taseko was given no opportunity to respond. Nor was Taseko invited to submit its own representations directly to the Minister.

49. On 23 January 2014, Chief William and other representatives of the TNG, as well as Interested Parties opposed to the Project, met with CEEA agents Candace Anderson (Crown Consultation Coordinator), Rachel Van Deventer (Senior Crown Consultation Analyst), and Bruce Morgan (Executive Advisor to Mr. Leboeuf), and other federal government officials, in Williams Lake.
50. At the 23 January 2014 meeting, the TNG submitted its comments on the Panel Report and on a draft "Crown Consultation Report," and CEEA officials provided the federal government's preliminary views on key Panel findings and conclusions. The attendees also discussed the results of the federal government's internal review of Taseko's position that Natural Resources Canada based its modelling on the wrong design. The TNG's submissions and information discussed at the meeting were incorporated into a Crown Consultation Report that was provided to the Minister before she made her decision under *CEAA 2012*.
51. Just two weeks before the Decision Statement was issued, on February 12 and 13, 2014, senior federal officials involved in the environmental assessment process met privately with Interested Parties opposed to the Project, including representatives of the TNG and its constituent bands. None of these meetings were documented in the Crown consultation log pertaining to the Project.
52. Specifically, on 12 February 2014, Chief William and other TNG officials, Grand Chief Stewart Phillip of the Union of BC Indian Chiefs (present by telephone), and other Interested Parties that were opposed to the Project, including Patricia Spencer of the group "Friends of Fish Lake" and Sage Birchwater of the group "Fish Lake Alliance," met privately with the following government officials:
  - (a) Michael Wernick, then Deputy Minister of Aboriginal Affairs and Northern Development Canada;

- (b) Louis Levesque, then Deputy Minister of Transport Canada;
  - (c) Matthew King, Deputy Minister of the Department of Fisheries and Oceans;
  - (d) Serge Dupont, then Deputy Minister of Natural Resources Canada; and
  - (e) A representative of CEAA.
53. And, on 13 February 2014, Chief William, JP Laplante (TNG Mining, Oil & Gas Manager), Chief Alphonse, Shawn Atleo (Assembly of First Nations National Chief), and other Interested Parties that were opposed to the Project, including Ms. Spencer and Mr. Birchwater, met with Dr. Colin Carrie, then Parliamentary Secretary to the Minister.
54. The Project was discussed at the meetings on February 12 and 13, 2014 and, among other things, the TNG provided input on draft conditions for the Decision Statement.
55. Prior to the Decision Statement, neither the Canada Agents, nor any federal official involved in the environmental assessment process, informed Taseko of the meetings set out in paragraphs 49-54, and Taseko was not provided an opportunity to attend any of these meetings. Federal officials involved in the environmental assessment process did not advise Taseko of the topics discussed or provide it with copies of any submissions made at the meetings, and Taseko was not invited to make its own submissions regarding topics canvassed.
56. On or around 18 February 2014, CEAA provided a document titled "Crown Consultation Report for the New Prosperity Gold-Copper Mine Project" (the "Crown Consultation Report") to the Minister for her to consider in rendering a decision under *CEAA 2012*. The Crown Consultation Report included information that was submitted by Aboriginal groups to the Panel and that was communicated directly to federal government officials.
57. Federal officials involved in the environmental assessment of the Project did not provide Taseko with a copy of the Crown Consultation Report or give it an opportunity to respond to its contents.
58. Moreover, all correspondence received by government officials from Aboriginal Interested Parties as part of "Phase IV" of the consultation process was provided to the

Minister in advance of her decision under *CEAA 2012*, yet Taseko was not provided with copies of this correspondence or given an opportunity to respond.

**E. Harm to Taseko**

59. As a result of the decision of the Minister, and the decision of the Governor in Council, as set out in the Decision Statement dated February 25, 2014, Taseko has suffered a substantial interference with its property interest in mineral resources held pursuant to the Tenures. Taseko is entirely precluded from exercising its rights to minerals located vertically downward within the claims area and to use, enter, and occupy the surface area in order to conduct mining operations.
60. Taseko has also suffered financial expense, loss, and damage, including but not limited to the cost of acquiring and exploring Tenures that are now valueless, expenses associated with development of the Project, the costs of conducting federal and provincial environmental assessment processes, and reputational damage.

**Part 2: RELIEF SOUGHT**

61. The plaintiff, Taseko Mines Limited, seeks the following relief:
- (a) general damages;
  - (b) punitive damages;
  - (c) interest pursuant to the *Court Order Interest Act*, RSBC 1996, c 79;
  - (d) costs; and
  - (e) such further and other relief as this Honourable Court may deem meet and just.

**Part 3: LEGAL BASIS**

62. Taseko pleads and relies on section 3 of the *Crown Liability and Proceedings Act*, RSC 1985, c C-50; and section 113(2) of *CEAA 2012*.

**A. Tort of Private Nuisance**

63. Taseko has a property interest in the mineral resources to which the Tenures pertain. In particular, Taseko possesses rights to land that include rights to sub-surface minerals and surface rights.
64. The environmental assessment of the Project conducted by the Defendants resulted in the Minister's decision that the Project was likely to cause significant adverse environmental effects and the Governor in Council's decision that these effects were not justified, as set out in the Decision Statement dated February 25, 2014.
65. In consequence, Taseko is precluded from exercising its rights to minerals located vertically downward within the claims area and to use, enter, and occupy the surface area in order to conduct mining operations.
66. This constitutes a substantial and unreasonable interference with Taseko's use and enjoyment of land. This interference arises from the Defendants' use of Crown land and lands over which the federal government purports to exercise legislative jurisdiction. These circumstances give rise to a claim in private nuisance.
67. The substantial and unreasonable interference with Taseko's interest in land was not the inevitable result of the environmental assessment process under *CEAA 2012*.

**B. Negligence**

68. The environmental assessment of the Project conducted by the Defendants' agents, employees, and servants, placed it in a close and direct relationship with Taseko.
69. The environmental assessment process pertained to a specific Project advanced by Taseko. The process was lengthy and intensive: it took place over several years; it encompassed numerous requests for information by CEAA and other government agents, to which Taseko responded; and it involved myriad communications between Taseko, CEAA agents and employees, and the Minister.
70. The federal environmental assessment was an operational process that required the Defendants and their agents, employees, and servants to consider Taseko's interests as

the proponent of the Project that would be directly affected by the decisions of the Minister and Governor in Council. Further, the Panel was mandated to consider, *inter alia*, the need for and purpose of the Project from Taseko's perspective.

71. In these circumstances, the Defendants and their agents, employees, and servants owed Taseko a private law duty of care. In particular, at all material times, the Defendants and their agents, employees, and servants owed Taseko a duty of care to:
- (a) deal fairly and openly with Taseko;
  - (b) conduct the environmental assessment in accordance with the law; and
  - (c) take into account only relevant considerations.
72. In breach of these duties, the Defendants and their agents, employees, and servants:
- (a) failed to deal openly and fairly with Taseko, including by hosting private meetings with Interested Parties, as particularized above;
  - (b) failed to conduct the environmental assessment in accordance with the law, including section 2(e) of the *Bill of Rights*,<sup>5</sup> *CEAA 2012*, and the Amended Terms of Reference; and
  - (c) took into account irrelevant considerations, including submissions made by the TNG to government officials after the close of hearings.
73. The Defendants' breach of their duties foreseeably caused, and continues to cause Taseko damages, expenses, and loss, as set out above.
74. Taseko took all measures available to it to prevent or mitigate its losses, including:
- (a) requesting that the Defendants provide Taseko with information and submissions obtained from other Interested Parties; and
  - (b) bringing judicial review proceedings challenging the lawfulness of the Panel Report and decisions of the Minister and Governor in Council.

**C. Misfeasance in a Public Office**

75. In conducting the environmental assessment process in the manner set out herein, the Canada Agents or some of them, acting in their capacity as agents, employees, and

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<sup>5</sup> SC 1960, c 44.

servants of the Defendants, and as holders of public office, engaged in a pattern of deliberate and unlawful conduct. In particular, but without limitation, the Canada Agents or some of them engaged in misfeasance in public office by:

- (a) failing to meet the legal duty of procedural fairness the Canada Agents owed to Taseko, including by organizing and attending meetings with Interested Parties opposed to the Project, and by providing information obtained in these meetings (to which Taseko did not have an opportunity to respond) to the Minister; and
- (b) acting in excess of the powers granted to them under *CEAA 2012*, including the Minister's consideration of extraneous information.

76. The Canada Agents or some of them acted with knowledge of the unlawfulness of the conduct set out herein, and with knowledge, subjective recklessness, or willful disregard of the likelihood that their conduct would harm Taseko.

77. The deliberate and unlawful conduct of the Canada Agents caused, and continues to cause Taseko damages, expenses, and loss, as set out above.

78. The conduct of the Canada Agents or some of them was malicious, oppressive, and high-handed.

**D. De Facto Expropriation**

79. In the alternative, the Minister's decision that the Project was likely to cause significant adverse environmental effects and the Governor in Council's decision that these effects were not justified, as set out in the Decision Statement dated February 25, 2014, constitute a *de facto* expropriation of Taseko's property interest in the mineral resources to which the Tenures pertain.

80. Pursuant to the Tenures and British Columbia legislation, Taseko possessed the right to extract minerals located vertically downward within the claims area and to use, enter, and occupy the surface area in order to conduct mining operations.

81. The effect of the federal environmental assessment process culminating in the Decision Statement is to defeat Taseko's entire interest in the mineral resources: Taseko is prohibited from implementing the Project, and thus cannot develop its claims or extract



mineral resources. Nor can it secure necessary permits from federal authorities. Accordingly, the Tenures are worthless.

82. The Defendants have not compensated Taseko for the taking of its property. Rather, the Defendants require Taseko to finance aspects of the very environmental assessment process that deprived it of its property interest.
83. The Defendants acquired benefits by virtue of the removal of the competing claims to use of the land by Taseko and First Nations, including the TNG. The Defendants are absolved of their duties to consult further with interested Aboriginal groups and to accommodate Aboriginal interests, which duties would have arisen had the Project proceeded to the relevant federal permitting stages. The defeat of Taseko's interest in the mineral resources also effectively removed an encumbrance on Crown land (title to which is indivisibly vested in Her Majesty the Queen) to the benefit of the Defendants.

Plaintiff's address for service: Hunter Litigation Chambers  
2100 - 1040 West Georgia Street  
Vancouver, BC V6E 4H1


Fax number address for service (if any): 604 647 4554

E-mail address for service (if any): jhunter@litigationchambers.com

Place of trial: Vancouver, British Columbia

The address of the registry is: 800 Smithe Street, Vancouver, BC V6Z 2E1

Dated: February 11, 2016

  
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Counsel for the Plaintiff  
John J.L. Hunter, Q.C.  
Hunter Litigation Chambers Law Corporation

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

- (a) prepare a list of documents in Form 22 that lists
  - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
  - (ii) all other documents to which the party intends to refer at trial, and
- (b) serve the list on all parties of record.

**APPENDIX**

**Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:**

Claim for damages for nuisance, negligence, misfeasance in a public office, and expropriation.

**Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:**

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

**Part 3: THIS CLAIM INVOLVES:**

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

**Part 4:**

The following enactments will be relied on:

*Canadian Environmental Assessment Act, SC 1992, c 37*

*Canadian Environmental Assessment Act, 2012, SC 2012, c 19, s 52*

*Mineral Tenure Act, RSBC 1996, c 292*