



AME's Submission to Canada's Expert Panel on Environmental Assessment Processes

December 21, 2016

1. INTRODUCTION

On behalf of the Association for Mineral Exploration (AME), we are pleased to provide this written submission in support of AME's presentation on December 12, 2016 to Canada's Expert Panel on Environmental Assessment Processes. AME appreciates the opportunity to share with the Expert Panel its experience and views on federal environmental assessment processes.

The Minister of Environment and Climate Change established the Expert Panel to review federal environmental assessment processes associated with the *Canadian Environmental Assessment Act, 2012*. AME understands that the goal of the Expert Panel is to develop recommendations to the Minister of Environment and Climate Change for restoring public confidence in environmental assessment processes. It is important to AME that environmental assessment processes are fair, robust, efficient, incorporate scientific evidence, protect our shared environment, respect the rights of Indigenous peoples, and support socio-economic growth.

In a competitive investment climate, global investors appraise the efficiency and effectiveness of a jurisdiction's permitting and regulatory systems (inclusive of environmental assessment processes) before risking venture capital. Permitting and environmental assessment process delays caused by lack of sufficient resources or inconsistent application of government policies significantly discourage private sector confidence, investment, First Nations and public support, job creation and economic growth. Because grassroots mineral exploration is the critical foundation for a vital mining sector, a jurisdiction needs transparent and consistently-applied permitting and regulatory processes to encourage sustained investment in all phases of exploration and development.

2. ABOUT THE ASSOCIATION FOR MINERAL EXPLORATION

AME is the lead association for the mineral exploration and development industry based in British Columbia. Established in 1912, AME BC represents, advocates, protects and promotes the interests of almost 5,000 members who are engaged in mineral exploration and development in BC and globally. AME encourages a safe, economically strong and environmentally responsible industry by providing clear initiatives, policies, events and tools to support its membership. AME is a not for profit association, funded by our membership and receives no government funding.

AME's membership is diverse, ranging from individual prospectors and small junior companies to major multi-national companies and industry suppliers. Many of our members are public companies listed on the Toronto, as well as international, stock exchanges. While most AME members are focused on British Columbia, many also work across Canada and around the world in mineral and coal exploration and development, with some major companies operating producing mines. Junior exploration companies, unlike major companies that have an operating mine and source of revenue, need to secure access to venture capital to fund mineral exploration projects, especially early-stage, grassroots projects which could begin to replenish the nation's depleting inventory of mineral development projects.

3. STATE OF THE EXPLORATION INDUSTRY AND BC MINERAL AND COAL PROJECTS IN THE ENVIRONMENTAL ASSESSMENT PROCESS

Mineral exploration is the lifeblood of the mining sector. Without exploration, there would be no mineral deposits discovered, and thus no mining. Through high-tech and low-impact geoscience and modern exploration techniques, members of AME discover the rare mineral, metal and steel-making coal deposits that may be

mined for the basic materials that we all use on a daily basis. The greener economy of the future will be absolutely dependent on these materials.

But British Columbia, just like the rest of Canada, operates in a highly competitive, open trade environment. Mineral explorers and developers are price-takers, not price-makers, and are therefore subject to the basic fundamentals of global supply and demand. And even with the application of very prudent fiscal restraint and cost-cutting measures, the industry is still weathering one of the most extreme and sustained downturns in history – resulting in bankruptcies, layoffs and cancelled, or delayed projects.

Many members of AME are struggling to stay afloat during these difficult times, regardless of the recent market price increases for some base and precious metals and steel-making coal. While there is some confidence returning to the industry, it is limited and there remains a high degree of uncertainty going forward with respect to the depth and substance of the current price increases. Junior companies, which largely depend on equity markets to finance exploration activities, continue to struggle to raise capital, particularly for grassroots exploration.

Mineral exploration expenditures in BC declined from a high of \$680 million in 2012 to \$272 million in 2015. Yet British Columbia still attracted almost 20% of all exploration dollars spent in Canada in 2015, compared to just 6% in 2001. Globally, overall financing for the industry dropped by almost 40% between 2007 and 2015, while financing for exploration has fallen over 90%. In addition, after years on top, Canada no longer attracts the single-largest share of total global mineral exploration budgets, conceding first place to Australia in 2015.

The mines currently in production in BC, and those in the environmental assessment process, are a direct result of successful discoveries made through prospecting and grassroots exploration work conducted in the past, much of it decades ago. On average, a prospect will reach development stage between 15 and 20 years after discovery. In many cases, it takes years longer. Generally, only 1 out of every 1,000 grassroots exploration projects will reach the advanced development phase. While very few grassroots exploration projects reach the advanced development stage, each exploration program creates value to British Columbians through community and regional economic development, and by increasing the geological knowledge of a region.

There are currently 13 mineral and coal projects in the environmental assessment process in BC. These projects represent over \$15 billion in potential capital investment into BC and Canada's economy. Six of the 13 projects are in the pre-application stage and seven are in the review stage. Two of the mineral and coal projects are using the substituted process. Substitution was a new tool introduced in BC following the 2013 Memorandum of Understanding between Canada and British Columbia on Substitution of Environmental Assessments that was enabled by the *Canadian Environmental Assessment Act, 2012*. Under substitution, where both federal and provincial environmental assessments are required, there can be a single review process (the provincial one, in BC) and two decisions (federal and provincial).

4. SUBSTITUTED ENVIRONMENTAL ASSESSMENT PROCESS IN BC

Since 2013, Canada has approved substitution for 14 environmental assessment reviews in BC related to energy, transportation and mining projects. Substitution allows for the BC Environmental Assessment Office (BCEAO) and Canadian Environmental Assessment Agency (CEAA) to effectively and efficiently fulfill respective agency requirements and separate decision making responsibilities without dual processes.

The substitution process enables proponents, regulators, First Nations and public stakeholders to address interests without unnecessary duplication. The process is comprehensive, and has requirements to consult and engage First Nations, regulators and stakeholders in a formalized public environment. It is important for

proponents of a reviewable project that timelines are set and adhered to, thereby ensuring that decisions are made in a fair and timely manner. AME believes the substituted BC-Canada process is rigorous and effectively assesses the potential significant effects of projects. The single process has a number of advantages that AME believes are important, including:

- Having a focused conversation on key issues rather than multiple and repetitious discussions on the same topics;
- Improved consultation and coordination amongst all parties and interests, which enhances public participation and confidence in the process;
- Reduced expenditure of time, money and resources for all; and
- A more comprehensive assessment and consideration of facts, while retaining separate decision making authority.

AME believes that having a single process through substitution that fulfills the legal and regulatory requirements of both CEAA and the BC EAO enhances public and investor confidence.

Overlapping, duplicative processes do not result in better or more informed decisions. Too often, duplication of process results in poor use of limited resources and time (for government, proponent, Indigenous peoples and stakeholders) and may frustrate or confuse participants of any individual review. AME also believes that having multiple review processes undermines the credibility and participant confidence of assessment decisions for the following reasons:

- Multiple processes can create agency conflict and unnecessary escalation of project scope questions at critical environmental assessment review stages,
- Too often require extensive replication of information and data, which is costly, error prone and time consuming, and
- Can frustrate participants, public and proponents in a process.

5. IMPROVING THE ENVIRONMENTAL ASSESSMENT PROCESS

- As stated during AME's presentation to the Expert Panel on December 12, 2016, AME is supportive of the BC-Canada substitution process; however, we also believe there are opportunities for improvement. The federal government should take deliberate steps to evolve the substitution process into a full equivalency status for BC environmental assessments. Under equivalency, a designated project would be exempted from the application of the *Canadian Environmental Assessment Act, 2012*. As such, only a single environmental assessment is conducted and a single decision made about whether the proposed project should be granted approval.
- Based on Canada's constitution, the Province is wholly responsible for managing its mineral and coal resources and therefore the environmental assessment and permitting of mineral and coal exploration and development projects in BC. Evolving to full equivalency would clarify and support this jurisdictional authority whereby the Province retains mineral and coal development project approval, with federal government involvement in defined areas of appropriate federal responsibility and jurisdiction (this includes issues that may influence/affect international interests, *Fisheries Act* and other relevant legislation such as *Species at Risk Act*). Undertaking a move toward equivalency would further reduce regulatory overlap, eliminate conflicting decisions and ultimately improve industry, stakeholder, indigenous and public confidence.

- Experts involved in the federal component of an environmental assessment should focus their review on critical project elements, and avoid scope creep and consideration of tangential issues where mineral and coal project proponents rarely have any direct control or influence. A clear example of scope creep is the concept of assessing cumulative effects not related to or caused by mineral and coal development. It is very common for a mineral or coal project to require 10 to 20 years of detailed exploration, resource definition and baseline environmental data collection before it is ready to enter into the environmental assessment process. During this time, the activities of the proponent normally remain focused on the general area of the mineral or coal deposit, and the ancillary infrastructure needed for mining. In BC, however, it is common for significant landscape-level changes to occur in an area during this period as a result of other industry operations (e.g. forestry, oil and gas, linear developments such as powerlines and pipelines) for which the proponent has no ability to forecast, avoid or modify to mitigate impacts. Furthermore, many of the potential impacts caused by these other industries are not reviewed at the same level of detail, or to the same rigor, by the federal government as compared to mining projects.
- AME believes that the current independent panel process is a poor method of assessing potential environmental impacts and economic benefits of a proposed project. The panel process has, in many cases, become an emotionally-charged forum for individuals and organizations to express opinions, with less reliance on scientific review, analysis and consideration of relevant facts and information. Panel reviews are logistically and technically challenging, often difficult to coordinate and increasingly confrontational – all of which makes it difficult to fulfil government responsibilities. Within this difficult reality, independent panel members are expected to exhaustively and fairly review proposed projects and the myriad perspectives provided by interested participants. AME believes this is an unrealistic assignment and sets up expectations of the panel that simply cannot be reasonably achieved. Furthermore, the panel is accountable to no one. This makes the panel process essentially an abrogation of government responsibility. The independent panel process should be eliminated.
- AME advocates for appropriate government support to indigenous communities to meaningfully participate in the environmental assessment process in BC. AME's consistent and regular message to our members is that industry must respectfully, proactively and frequently engage with indigenous people and communities, throughout the life cycle of mineral discovery and development. It is important to recognize and celebrate the fact that mineral exploration, development and mining is the largest private-sector employer of indigenous people in Canada. The reality is that the industry is commonly the most significant opportunity that remote and rural communities have for economic development. The challenge of balancing economic opportunity with traditional values is complex, and AME is at the forefront of advocating for responsible mineral and coal development for the benefit of all Canadians, including indigenous people.
- Environmental assessments should not be overly influenced by external organizations and their agendas, especially internationally funded groups that do not have interests in Canada. The benefits of a project to First Nations, local and regional communities, provinces and to all Canadians should not be underweighted when often larger, more organized and well-funded non-government organizations take strong contrary positions on a proposed project, even though they will not be directly impacted by the project and have no vested interest in the Province of British Columbia or in Canada.
- It is fair that proponents are asked to provide relevant information in response to questions about a proposed project. However, environmental assessments should remain focused on higher level questions and information exchange that relates to significant potential impacts and benefits. Highly specific and technical matters are often best discussed, considered and addressed during the more

detailed permitting process that typically follows environmental assessment level review, such as those enabled by the BC *Mines Act* permitting review process, or a federal regulatory approval process such as the Metal Mines Effluent Regulation. Importantly, all of these permitting processes include opportunities for extensive First Nations and public consultation if, and when, a proposed project receives environmental assessment approval.

6. CONCLUSION

AME appreciates the opportunity to share the perspectives of BC's mineral explorers and developers with the Expert Panel on federal environmental assessment processes. We understand the panel will hear many opinions, perspectives and concepts that will require careful consideration and balancing of interests in moving forward with environmental assessment process improvements in Canada. As an association that advocates for mineral exploration and development, we are stalwart in our position that resource management and use must always be conducted in a responsible manner that benefits all Canadians.

AME believes that the current environmental assessment process can be improved, and that the role of the government is to consider and facilitate change that enables effective, inclusive, fair and efficient review and decision making. We remain available to the Government of Canada to discuss potential changes that could optimize the efficiency and effectiveness of the environmental assessment process for everyone.