

The Government of Canada's Response to the Environmental Assessment Report of the Joint Review Panel on the Kemess North Copper-Gold Mine Project

<http://www.ceaa.gc.ca/052/document-html-eng.cfm?did=25797>

The Project

Northgate Minerals Corporation (Northgate) proposes to develop the Kemess North Copper-Gold Mine Project (Project), located approximately 250 km northeast of Smithers, B.C., and 450 km northwest of Prince George, B.C.

The Project represents an expansion of the existing Kemess South mine, including the development of a new open pit and modification of the existing mill and related infrastructure. Activities would include the construction of a new pit, haul roads, a primary ore crusher, a 25-kV powerline extension, an ore conveyor and tunnel delivery system to the Kemess South mill, waste rock dumps, a fuel storage area, an explosives manufacturing plant, tailings pipelines and a tailings impoundment area.

The Project would result in the milling capacity at the operating Kemess mine being increased from the current 55,000 tonnes per day to up to 120,000 tonnes per day. Over the life of the Project, Northgate estimates that 397 million tonnes of tailings and 325 million tonnes of waste rock would be generated. Northgate proposes to place most of the waste rock and tailings underwater in a natural water body, Duncan (Amazay) Lake. The Project would be carried out in three phases, a construction phase (2 years), an operational phase (11 years) and closure phase (up to 5 years).

The Environmental Assessment Process

In 2004, Northgate submitted a project description to the British Columbia Environmental Assessment Office and the Canadian Environmental Assessment Agency.

The Project requires:

- i. Fisheries and Oceans Canada (DFO) authorization for the harmful alteration, disruption or destruction of fish habitat pursuant to subsection 35(2) of the *Fisheries Act* for the construction of the Tailings Impoundment Area (TIA) dams; and a recommendation to the Governor in Council for the making of regulations to list Duncan (Amazay) Lake as a TIA on Schedule 2 of the *Metal Mining Effluent Regulations* (MMER) under paragraphs 36(5) (a) to (e) of the *Fisheries Act*;
- ii. Natural Resources Canada (NRCan) licence under paragraph 7(1)(a) of the *Explosives Act* for the construction of an explosives manufacturing plant; and
- iii. Transport Canada (TC) approval under paragraph 5(1)(a) of the *Navigable Waters Protection Act* for the dams, slurry pipeline, and waste rock in and at Duncan (Amazay) Lake and an exemption under section 23 of the same Act for the deposition of tailings in Duncan (Amazay) Lake.

These regulatory requirements make it necessary to conduct an environmental assessment for the Project under the *Canadian Environmental Assessment Act* (CEAA) prior to issuing any federal approvals.

On September 24, 2004, the Minister of DFO, supported by the Ministers of TC and NRCan, requested that the Minister of the Environment refer the Project to a review panel under paragraphs 25(a) and (b) of CEAA due to public concerns and uncertainties related to the potential for the Project to cause significant adverse environmental effects, including the possible

destruction of a whole-lake ecosystem. The Minister of the Environment referred the Project to a review panel on March 14, 2005.

The Project constitutes a reviewable expansion of an existing mineral mine, pursuant to Part 3 of the *Reviewable Projects Regulation* of the *British Columbia Environmental Assessment Act*. Consequently, a provincial environmental assessment was also required.

On May 19, 2005, the federal Minister of the Environment and the British Columbia Minister of Sustainable Resource Management signed an agreement concerning the Establishment of a Joint Review Panel for the Kemess North Copper-Gold Mine Project (Agreement). Under the Agreement, the Joint Review Panel (JRP) was authorized to undertake the review requirements of CEAA and the *British Columbia Environmental Assessment Act*. The Agreement established the terms of reference of the JRP, which prescribes the scope of the environmental assessment and the components of the JRP process. The environmental assessment of the Project was undertaken jointly with British Columbia in accordance with the *Canada – British Columbia Agreement for Environmental Assessment Cooperation*.

Various opportunities for participation by interested parties were provided for during the JRP process. Public comment periods were held on the draft agreement concerning the Establishment of a Joint Review Panel for the Kemess North Copper-Gold Mine Project the guidelines for the preparation of the Environmental Impact Assessment (EIA), and the EIA itself.

Public hearings on the environmental effects of the Project were held in Prince George, B.C. from October 30 to November 3, 2006, and in Smithers, B.C. from November 20 to 24, 2006. Additional hearing sessions were held in the Aboriginal community of Kwadacha (Fort Ware) from December 5 to 7, 2006, to facilitate participation in the panel process by members of the Tse Keh Nay. The Panel held additional hearings in Smithers from May 14 to 17, 2007, specifically to obtain additional information from Aboriginal people, particularly new information on traditional land use and socio-economic conditions, and to give an opportunity for other parties to provide final submissions to the JRP.

The JRP considered the following issues at the hearings: purpose, need, and alternatives to the project, including alternative means of carrying out the project; potential environmental effects, including effects on human health, water management and quality, fish and fish habitat, and terrestrial resources; potential accidents and malfunctions; cumulative environmental effects; socio-economic issues; aboriginal issues, including traditional land use and Traditional Ecological Knowledge; tailings management; air emissions; stakeholder and public consultation; and environmental sustainability.

The hearings gave interested parties the opportunity to better understand the Project and its consequences, and to provide their views and concerns to the JRP. Northgate presented information on the Project and provided clarifications as required. Federal and provincial government agencies also presented their views on the Project and its potential effects and mitigation measures. All hearing sessions were recorded by a court reporter and broadcast on the Internet.

The Joint Review Panel Report

The JRP delivered its report to the Minister of the Environment and the Provincial Minister of Environment on September 17, 2007. The report addresses the factors identified in the JRP's Terms of Reference, and sets out the rationale, conclusions and recommendations of the JRP relating to the environmental assessment of the Project, including any mitigation measures and follow-up program, and an assessment of whether issues raised by Aboriginal people and the public, that are within the scope of the environmental assessment, have been or will be addressed.

The JRP concluded that the economic and social benefits provided by the Project, on balance, are outweighed by the risks of significant adverse environmental, social and cultural effects, some of which may not emerge until many years after mining operations cease. The JRP made an overall recommendation on the Project, identified as Recommendation #31 in the JRP report, which

states “The Panel recommends to the federal and provincial Ministers of the Environment that the Project not be approved as proposed.”

The JRP acknowledged that Ministers could disagree with the Panel’s advice and approve the Project. Therefore, the JRP included thirty-two additional recommendations in their report, which in the view of the JRP, would help to enhance Project benefits and facilitate efforts to manage and minimize adverse effects, should the Project proceed.

The Government Response

The JRP’s recommendations to the Government of Canada are addressed through this federal response pursuant to subsection 37(1.1) of CEAA, as approved by the Governor in Council and in consultation with other federal agencies.

The Government of Canada accepts the overall JRP recommendation on the Project (Recommendation #31) as presented in the report. In preparation of this Government of Canada Response, DFO, NRCan and TC, as the Responsible Authorities (RAs) under CEAA, carefully considered the report submitted by the JRP.

Paragraph 37(1.1)(c) of the CEAA, indicates that the RAs shall take a course of action that is in conformity with the approval of the Governor in Council. As a result, under subsection 37(1) of the CEAA, DFO, NRCan and TC, as the Responsible Authorities, shall not exercise any power or perform any duty or function conferred on it by or under any Act of Parliament that would permit the Project to be carried out in whole or in part.

DFO, NRCan and TC will not be issuing any subsection 35(2) *Fisheries Act* authorizations, a paragraph 7(1)(a) *Explosives Act* licence or any paragraph 5(1)(a) *Navigable Water Protection Act* approvals associated with this Project. DFO will not make a recommendation to amend the *Metal Mining Effluent Regulations* (MMER) to allow tailings storage in Duncan (Amazay) Lake. TC will not recommend granting an exemption pursuant to section 23 of the *Navigable Waters Protection Act* to enable the deposit of tailings into Duncan (Amazay) Lake.