

**Environmental Assessment (EA) Revitalization Engagement
Mining Association of British Columbia (MABC)**

**Monday, April 16, 2018; 10:00 AM – 3:15 PM
Terminal City Club, 837 West Hastings St, Vancouver BC**

Participants

MABC: Tim Bekhuys (New Gold), Robert Rotzinger (Taseko Mines Limited), Phil Welton (Centerra), Sachi De Souza (New Gold), Rob Beleutz (Graymont), Jody Shimkus (HD Mining), Elizabeth Miller (Seabridge Gold), Mark Freberg (Teck Resources; EAAC), Bryan Cox (MABC), Loaralee Johnstone (Coeur), Lyn Anglin (Imperial Metals Corporation), Rob McLeod (IDM Mining), Lindsay Kislock (MABC), Diana Walls (MABC), Neil Rayner (Teck)

Environmental Assessment Office (EAO): Paul Craven, Scott Bailey, Fern Stockman, Erin McGuigan
Ministry of Energy, Mines and Petroleum Resources (MEMPR): Peter Robb

Action Items

The EAO will follow-up with MABC regarding sharing publicly sharing summary notes

Topics Identified for Further Discussion

- Certified project descriptions and amendments
- Information requirements for project descriptions for new projects
- Process for extension and amendments to existing EA Certificates

Overarching Themes

Investor confidence; a balance of process certainty (including decisions and timelines) and flexibility; duration and scope of EAs; the interface between EA and permitting to avoid duplicated efforts; the current EA process is not broken and public confidence issues could be addressed through communication, including qualified professionals, quality of science; need for greater clarity and detail in the conceptual model

Summary Notes

Bryan Cox (MABC) provided a welcome to the meeting including the following points:

- We can't afford to get this wrong: EA revitalization will affect investor confidence, the success of mining projects and the sector, as well as reconciliation with First Nations;
- EA revitalization must consider the regulatory continuum to support a seamless transition through to permitting;
- Mining proponents require ongoing consultation during EA revitalization process;
- Proponents require a full understanding of the EA process; and
- MABC will be providing a written submission on EA revitalization.

EAO (Scott Bailey, Paul Craven and Fern Stockman) presented an overview of the EA revitalization process, considerations for EA revitalization and an overview of a draft conceptual model designed to present a possible future state for discussion purposes. Mark Freberg (Teck, and EA Advisory Committee [EAAC] member) provided additional information regarding the Environmental Assessment Advisory Committee (EAAC). The following is a topic-based summary of the discussion between the EAO and MABC members during the meeting.

EA Revitalization Process and the Discussion Paper

MABC members expressed the following concerns about the EA revitalization process:

- The -role of the First Nations Energy and Mining Council (FNEMC) in EA revitalization relative to the voice of all First Nations in BC, industry and other stakeholders.
- The transparency of the process, ensuring that MABC views are reflected in the Discussion Paper, and their interest in participation in ongoing engagement.
- The short EA revitalization timeline
- The importance of considering any forthcoming amendments to the recently tabled federal legislation.
- The current process is not in need of ‘fixing’; rather there is an insufficient understanding of the quality of EAs (and supporting documentation) that are done under the current system. A retrospective evaluation of the predictive accuracy and the efficacy of mitigations should be done before changes are made to understand if the “fixes” are truly needed.

Public Confidence

In regard to public confidence, MABC members emphasized the importance of improved communication regarding:

- The role of EAs in the regulatory continuum.
- Success stories to counter ‘poor press’.
- The good quality of the science used to inform EAs.
- The amount of data currently available on the EAO’s EPIC website.
- The independence of qualified professionals (QP) and the quality of the work they do.

MABC member suggested that using QPs that are endorsed by government and First Nations could be a solution to enhance public confidence and discouraged funding for additional professionals or a model that removes proponents from the role of designing and developing a project. The latter was flagged as risking investor confidence, hindering innovation by qualified professionals, and is better addressed by the Province in its Professional Reliance review.

An MABC member cautioned that transparency in all decision making, including First Nations decision points, is needed to ensure public confidence.

UNDRIP: First Nations Collaboration Plans, Processes and First Nation-led EAs

In regard to First Nations and EAs, MABC members raised the following:

- The need for clear criteria to determine when and where First Nations-led EA processes are conducted (to align with the proposed federal process).
- The conceptual model needs additional clarity on the First Nation decision points including what is being decided, by whom, using what criteria, within what time frame, and how and what the mechanism is for dispute resolution.
- Members sought clarification whether the First Nations decision points are vetos. EAO clarified that they are not.
- This is also an opportunity for proponents to know which First Nations have rights and title and for First Nations to provide clarity on how they want to be engaged in the EA.
- Decision points create a leverage point and discourage First Nations from coming to agreements earlier, potentially impacting relationships between proponents and First Nations and limiting a proponent's ability to reach an early agreement with a First Nation. First Nations currently have an opportunity to express their views regarding a project, through separate submissions to Ministers.
- Concern that the proposed process could result in First Nations or non-government organizations demanding permitting-level information in the EA and delaying process.
- The need for agreements between the Province and First Nations prior to a project-specific EA to address broader (non-project specific) cooperation between First Nations and government, to avoid more general issues getting caught up in a project-specific EA process.

Timelines and Scope

MABC members raised concerns that the proposed process would be longer than the current process. MABC members would like to see a timeline driven process and one member suggested key performance indicators as used in the proposed federal process. Concerns that were raised include the following:

- The risk that the Building Blocks and Early Engagement stages in the conceptual model could go on indefinitely.
- The undefined duration of the Building Blocks, Early Engagement, and Information Gathering and Analysis stages is a problem that creates uncertainty.
- The proposed Impact Assessment stage in addition to the Information Gathering and Analysis stage appears to lengthen the process and there is a concern it will always be drawn out to the maximum timeframe.
- The two 45-day periods proposed for Decision Making would lengthen the process.

Building Blocks and Early Engagement

In regard to the initial project description (PD) proposed in the conceptual model, MABC raised the need for additional clarity regarding the information that would be required in the Initial PD, and the timing

associated with 'early engagement'. MABC cautioned that requirements should be very clear, take into consideration disclosure requirements for public companies and align with securities law requirements.

In regard to early relationship building activities, MABC raised the following considerations:

- Other than engagement with the EAO, MABC members said they already conduct these activities, and therefore they should not be depicted in the process. EAO should not have a role in "facilitating" early engagement.
- If the EAO is going to test the adequacy of early engagement, MABC members question how this determination would be made, which is a necessary component for procedural certainty.
- Questions arose regarding what is meant by 'early'. Proponents often don't have enough information to talk meaningfully about a project at the very early stages. Conceptual high-level discussions are possible, but formalizing these discussions is challenging because stakeholders and First Nations ask questions that proponents cannot answer at that stage. Therefore, it is reasonable to expect that work will already be undertaken by the proponent prior to initiating the 'early engagement' stage proposed in the Conceptual Model. Engagement on a conceptual plan will differ from engagement on a project that has undergone lengthy feasibility.
- If the objective of early engagement is to identify what really matters to First Nations and stakeholders, and to streamline the EA, it would be a selling point for proponents.

MABC noted that requiring strategic land use plans to be in place could create unsurmountable hurdles and that needs to be clear that these are pieces of information that would feed into an EA, but not requisites for an EA.

Readiness Test

MABC members raised the following as important to proponent certainty and investor confidence:

- Proponents should determine when a project is ready to enter the EA process, not the EAO.
- The need for clear (non-discretionary) criteria for any readiness test (red light).
- The need for a dispute resolution process that would provide a mechanism for disputes between First Nations and EAO, or amongst First Nations, to be resolved in a timely manner.
- In the event that a project did not receive the 'green light' to proceed to the EA, there is the need for a process to enable a proponent to return into and resume the process at this stage.

Process Planning

Noting EAO's reference to flexibility to customize an EA to the needs of a specific project, MABC asked if the EAO is proposing a more focused EA approach that is different from the international impact assessment model, or the international approach with additional customized work. MABC members cautioned the conceptual model does not imply the intention is to narrow down issues and focus efforts. The EAO clarified that the international impact assessment model would still be used, with the focus on narrowing down issues through the EA.

MABC also noted that the identification of information requirements and the introduction of collaborative processes is too late in the conceptual model, which can create uncertainty and increase the potential for delays in the process.

Information Gathering and Analysis

In regard to information gathering and analysis, MABC members noted the following:

- Proponents need to know what the information requirements (standards) are before initiating an EA and would like additional guidance for analyzing data (not just for collecting it). These requirements would need to be held throughout the process.
- Improved access to data would help and that they do not foresee objections to sharing data although some types of data are sensitive (e.g. wildlife data attracting hunters) and should be managed accordingly.
- The removal of application screening implies that the process is getting more complicated.

Final Decision Stage

MABC members sought clarification regarding how the deciding Ministers would consider the decisions made by First Nations and local communities. EAO responded that if these were part of the EA, they would. The goal is to have all decisions informed by the same information generated in the EA.

Referencing the 'Final Decision' description contained in the Conceptual Model document, MABC members sought clarification on what First Nations would be deciding upon at this stage, or if the final decision rested entirely with the Minister(s), and informed by the Assessments submitted by First Nations.

Post Certification, and Compliance and Enforcement and the Regulatory Continuum

In regard to EAs role in the regulatory continuum, MABC members raised the following:

- Provincial agencies need to have clarity on their respective roles in compliance and enforcement.
- EA revitalization implementation must be aligned with the work of other agencies.

MABC noted that the cycle of having to do repeated amendments for permitting, is problematic and time consuming. MABC requested further discussion of amendment's, certified project descriptions and a conceptual model for the renewal of certificates.

MABC suggested that amendments should consider if a proposed change would result in additional or changed impacts.

MABC reiterated the need to remove overlaps with other regulatory and permitting functions.

MABC members said that compliance and enforcement requirements need to be flexible enough to accommodate an operating environment and focus on intended outcomes.

Other Concerns and comments Include

MABC members also raised the following:

- The need for certainty on how projects will be transitioned into the new process, and how existing certificates will be extended or amended. The EA Revitalization website was referenced which stated that projects currently in the assessment process would continue in the existing process.
- Considerations of supporting policy and regulation.
- A project manager that works for government, but could be funded by the company so that there is exclusive, dedicated project support would be helpful (e.g., Alaska) and would interface with the relevant line ministries to improve the linkage between the EA process and permitting process.
- Introducing Key Performance Indicators was proposed as a mechanism to set standards against which the parties in the EA process would be measured. It would allow EAO to track, measure and report successes.

Flexible Process

MABC members said that the flexibility in the current process is liked, but increased certainty regarding timelines would be helpful. Avoiding the ratchet effect, whereby each successive EA requires additional information and analysis, is also of importance to MABC members.