



# MiningWatch Canada

---

## Mines Alerte

*Suite 508, 250 City Centre Avenue, Ottawa, Ontario, Canada K1R 6K7  
tel. (613) 569-3439 — fax: (613) 569-5138 — [info@miningwatch.ca](mailto:info@miningwatch.ca) — [www.miningwatch.ca](http://www.miningwatch.ca)*

### **Comment on the Federal Environmental Assessment of the proposed Ruddock Creek Lead and Zinc Mine**

Submitted by Ramsey Hart, Canada Program Coordinator, MiningWatch Canada

June 11, 2014

The following is MiningWatch Canada's response to the May 30, 2014 notice of public consultation regarding the proposed Ruddock Creek Lead and Zinc Mine (CEAA #80072).

The development of the Ruddock Creek project has the potential for adverse environmental effects on inter-related ecological values of the project area that are considered environmental effects under Section 5 of CEAA 2012, including Aboriginal uses of the land and related resources for traditional purposes, fish, and fish habitat. These potential impacts clearly warrant a federal environmental assessment. Furthermore, some of these effects are likely to be significant. Given these risks and the concern the project is raising, we strongly recommend a federal Review Panel assessment. Substitution of a provincial environmental assessment is inappropriate under these circumstances. Explanation and additional details regarding these conclusions and recommendations are provided below.

#### **Adverse Environmental Effects and the Need for an Environmental Assessment**

The proponent's project description does not provide any information about Aboriginal uses of the project area but through correspondence with one of the area First Nations we understand that the mine is located in an area of active resource use including Aboriginal hunting, gathering, and fishing and as such is an area that is highly valued by Aboriginal community members. Infrastructure development and improvements to access, wildlife disturbance, impacts on water quality, noise, dust, and traffic on remote roads all have the potential to adversely affect First Nations' traditional use of the area. Any impacts on the resource base accessible to the first nations would likely have associated socio-economic and health impacts that also need to be considered as per Section 5 of CEAA 2012.

The project description notes the presence of federally threatened (Schedule 1 of SARA) Southern Mountain Woodland Caribou population. Caribou are regularly cited as a species historically hunted by the Secwepemc people and any threat to the survival of the caribou population must be considered in the light of cumulative impacts of the Secwepemc's Aboriginal right to hunt this species.

The project is in the upper reaches of the Adams River watershed – a system that supports one of the largest sockeye runs in the Fraser River system. The potential release of metals or other contaminants into the watershed is an important adverse effect that would have considerable cultural, ecological and economic repercussions.

The upper Adams watershed in the vicinity of the project site provides habitat to Bull Trout, a BC “blue listed” species that is under consideration for listing under the federal *Species at Risk Act* (SARA).

Two reviews of the national environmental effects monitoring program by Environment Canada have found that operating mines in Canada are adversely affecting downstream aquatic ecosystems, thus we would expect the same at the Ruddock project.

The Adams River is part of the Thompson River watershed, which has several other operating and proposed mines within its boundaries. There is a growing need to assess the cumulative impacts of these various projects on salmon and other ecological features of the watershed.

The project description notes that the proponent plans on using an alpine lake to dispose of tailings waste – a controversial and problematic practice. The proponent has not provided adequate information about the presence or absence of fish in this lake; if fish are present, the proponent's plants would harm or destroy fish habitat; regardless the use of the lake as a non-engineered tailings impoundment must be scrutinised with the greatest care.

## **Significance of Potential Adverse Effects**

Given the environmental review of this project is in the preliminary phase, adequate information and analysis are not available to reach conclusions about the significance of adverse effects. However, given what information is available we conclude that there is certainly *potential* for significant adverse effects.

Alienation and adverse effects on an area that is important to Aboriginal peoples (for example, because they currently use the lands and resources in that area for traditional purposes) should be considered a significant adverse effect. While these effects may be localised the number of places where Aboriginal peoples can effectively practice their Aboriginal rights are greatly diminished by past and ongoing activities such that any further restrictions should be viewed as *cumulative* and *significant*. There is a high degree of certainty that adverse effects on Aboriginal values associated with the area would be adversely affected.

The *ecological context* of the Adams River sockeye (and other salmon) is such that adverse effects to the already impacted population would be significant. Such impacts would extend beyond the local area to First Nations and other people that depend on healthy salmon populations downstream and in the marine fisheries. The recover process of the Upper Adams river by salmon is especially vulnerable. There is hope and anticipation that this historic run can be brought back. Impacts on the water quality that affect salmon health in this stretch of the watershed would certainly be a *significant* adverse effect.

Water quality impacts at mines extracting lead and zinc are common and most require active water treatment (e.g. Myra Falls, Bathurst, Red Dog). The proponent's project description does not include any provisions for water quality treatment, increasing the likelihood that significant adverse water quality impacts will occur.

### **Recommendation for Review Panel Assessment**

Given the proposed Ruddock Creek mine's potential for significant adverse effects the public interest would be best served by an assessment by a federal Review Panel. Such an assessment would provide greater engagement with First Nations including the opportunity to harmonize the process as per section 38(c) of CEAA 2012. It would also provide stakeholders with an adequate opportunity to express themselves before the Panel in written and oral submissions and provide an independent perspective on the effects of the project. An added advantage to the Review Panel process is the opportunity of cost recovery to the federal government.

### **Substitution Request**

MiningWatch urges the federal government to decline British Columbia's request for substitution. While B.C. may appear to meet some of the criteria in 34(1) of CEAA 2012 there are important qualitative differences in the federal and BC processes regarding Aboriginal and public consultation. The differing perspectives and responsibilities of the federal government are best represented through a federal process that can be coordinated ("harmonised") with the B.C. process as well as processes established by affected First Nations.

Important differences in Aboriginal engagement, public participation and technical review were clearly seen in the case of the proposed Prosperity Gold-Copper project that was approved by the provincial government and subsequently rejected by a much more thorough federal review panel process. An independent review of the federal and provincial processes determined that:

The two different EA processes, and the timing of decision-making, meant that the Federal Review Panel (and hence federal Cabinet) had more complete information upon which to base their analysis. For example, the EAO did not wait for critical information from Fisheries and Oceans Canada, and from First Nations and their

expert advisors, leading to deficiencies in the factual record placed before the provincial ministers.<sup>1</sup>

The substitution request and the Agency's notice make no reference to providing participant funding for any groups or individuals other than through the Aboriginal funding program. This will greatly reduce the ability and effectiveness of stakeholders that would typically seek to participate in the review.

Under a federal review process, section 25 of CEAA 2012 requires a public comment period on the draft assessment prepared by the Agency. This comment period gives participants the opportunity to ensure their views and concerns are effectively represented in the report. There is no such comment period for the equivalent report under the BC process.

We would also note that the B.C. EAO process operates under considerably reduced timeline compared with a federal process (standard or review panel). The EAO review process is only 180 days long with a 45-day period for a decision to be made, versus the year-long time frame for a standard EA or two year time frame for a review panel under CEAA2012. In our experience, the restrictive EAO timeline inevitably leads to significant challenges in informing and soliciting input from Aboriginal groups and stakeholders.

Cumulative effects on water quality, fisheries and species at risk are important concerns with this project. Under the B.C. EAO process there are no requirements for conducting a rigorous cumulative effects assessment. B.C. lacks the guidance and precision of requirements found in the federal Operational Policy Statement, *Assessing Cumulative Environmental Effects under the Canadian Environmental Assessment Act, 2012*.

The ability of the federal government to delegate its jurisdiction and oversight for Aboriginal affairs and environmental protection are grey areas in Canadian law. Given the level of concern associated with this project, abdicating responsibility to the province could leave the Agency and the federal government open to future legal challenges. This risk will add a considerable amount of uncertainty to the review process and its outcomes, something that is not to the benefit of the proponent, regulators, First Nations, nor in the public interest.

---

<sup>1</sup> M. Haddock. 2011. Comparison of the British Columbia and Federal Environmental Assessments for the Prosperity Mine. Northwest Institute.