

## 2. ASSESSMENT PROCESS

This section describes the assessment process relevant to the Harper Creek Project (the Project) and provides an overview of the federal and provincial environmental assessment (EA) requirements, a description of the coordinated EA process, and a summary of permitting requirements.

### 2.1 BRITISH COLUMBIA ENVIRONMENTAL ASSESSMENT ACT REQUIREMENTS

The British Columbia (BC) *Environmental Assessment Act* (BC EAA; 2002a) requires that certain large-scale project proposals undergo an EA and obtain an EA Certificate before they can proceed; an Application must be prepared for an EA Certificate which identifies and assesses any potential effects that may result from the proposed project, and ways to mitigate any adverse effects where possible. Federally, this information is compiled into an Environmental Impact Statement (EIS). Under a joint EA process, the proponent will submit one document that meets the requirements of both governments, referred hereafter to as the Application/EIS.

The BC EAA and accompanying regulations establish the framework for delivering EAs in BC. Within this framework, the scope, procedures, and methods of each assessment are tailored specifically to the circumstances of the proposed project. This approach allows for each assessment to focus on the issues relevant to the project when determining whether or not the project should proceed.

The decision to approve or reject a provincial EA for a mining project is made by the Minister of Energy and Mines and by the Minister of Environment (the Ministers). In making their ministerial referrals, the British Columbia Environmental Assessment Office (BC EAO) considers the information presented in the Application, along with any issues raised throughout the review process, to inform their conclusions regarding the potential for the project to result in significant adverse effects. If the project is allowed to proceed, an EA Certificate is issued under section 17(3) of the BC EAA and is subject to compliance and reporting requirements. The Certificate describes the physical works of the project (attached in Schedule A) and a Table of Conditions (Schedule B). The EA Certificate specifies a deadline by which the project must have substantially commenced and is generally at least three years and not more than five years after the issue date of the Certificate (the holder of the Certificate may apply to have the deadline extended). Once the project has substantially started, the EA Certificate remains in effect for the life of the project unless suspended or cancelled for breaches of the conditions. Proponents may apply to amend their EA Certificate as project circumstances change.

The BC EAA is supported by six regulations: the Reviewable Projects Regulation (BC Reg. 370/2002), the Prescribed Time Limits Regulation (BC Reg. 372/2002), the Public Consultation Policy Regulation (BC Reg. 373/2002), the Concurrent Approvals Regulation (BC Reg. 371/2002), and the Environmental Assessment Fee Regulation (BC Reg. 50/2014)—which are all described below—and the Transition Regulation (BC Reg. 361/2006), which applies to projects proposed on or before December 2002 and therefore is not applicable to this Project.

### **2.1.1 Reviewable Projects Regulation (BC Reg. 370/2002)**

Criteria for determining whether proposed mining developments are subject to the BC EAA are laid out in Part 3 of the Reviewable Projects Regulation (BC Reg. 370/2002). Pursuant to section 3(1) Table 6 of the Reviewable Projects Regulation (BC Reg. 370/2002), the proposed production capacity for the Project exceeds the criteria of 75,000 tonnes per annum of mineral ore for a new mineral mine, and will therefore require a provincial EA under the BC EAA. As specified in the section 10 Order issued by the BC EAO on September 18, 2008, Harper Creek Mining Corporation (the Proponent) cannot proceed with the proposed Project without an assessment because the proposed Project may have the potential for significant adverse environmental, economic, social, heritage, and health effects.

### **2.1.2 Prescribed Time Limits Regulation (BC Reg. 372/2002)**

The Prescribed Time Limits Regulation (BC Reg. 372/2002) establishes time limits at different stages of the assessment process. Section 2 prescribes a 30-day time limit for screening of the Application by the Executive Director while section 3(a) establishes a 180-day period to review the Application. There is also a 45-day time limit for making a decision after the Application has been referred to the Ministers, under section 4 of the regulation. This regulation also specifies time limits to provide information and conditions around suspending time limits.

### **2.1.3 Public Consultation Policy Regulation (BC Reg. 373/2002)**

The Public Consultation Policy Regulation (BC Reg. 373/2002) applies to reviewable projects under the BC EAA where a section 10 Order has been issued. The regulation requires proponents to undertake a public consultation program, as well as provide a summary and evaluation of public consultation activities held during the pre-Application and Application stages of the assessment process. The regulation also outlines the obligations of the proponent and the Executive Director in providing adequate time for public consultation and review in accordance with the Prescribed Time Limits Regulation (BC Reg. 372/2002), as well as the need for a public comment period on the Application of between 30 and 75 days, as established by the Executive Director.

### **2.1.4 Concurrent Approval Regulation (BC Reg. 371/2002)**

The Concurrent Approval Regulation (BC Reg. 371/2002) provides the mechanism for reviewable projects under the BC EAA to apply for concurrent review and approval of provincial permits needed to construct, operate, and undertake the project, in accordance with section 23(1) of the BC EAA. The regulation enables the Executive Director to consider project permit approvals concurrently with the EA process, where they may be required under separate enactments. The Proponent is not requesting concurrent permitting for the Project.

### **2.1.5 Environmental Assessment Fee Regulation (BC Reg. 50/2014)**

The Environmental Assessment Fee Regulation (BC Reg. 50/2014) came into force in April 2014 and requires project proponents and Certificate holders to pay fees at specific times within the assessment of a project. The Executive Director or the minister, as applicable, may make an order requiring the payment of application fees and/or enforcement fees. Under section 4(1)(a), the

Proponent is required to pay \$112,500 if the proposed Project was subject to an order under section 11 or 14 of the BC EAA before this regulation came into effect.

### 2.1.6 Guidance Documents

This Application/EIS has been prepared with reference to the provincial guidance documents listed below:

- *Environmental Assessment Office User Guide* (BC EAO 2011);
- *Guide to Involving Proponents when Consulting First Nations in the Environmental Assessment Process* (BC EAO 2013);
- *Proponent Guide for Providing First Nation Consultation Information - Non-Treaty First Nations* (BC EAO 2010); and
- *Environmental Assessment Office Public Comment Policy* (BC EAO 2012).

## 2.2 CANADIAN ENVIRONMENTAL ASSESSMENT ACT REQUIREMENTS

The Project is subject to the *Canadian Environmental Assessment Act* (CEAA; 1992a), the legislative basis for federal EA requirements. The EA process for the Project was initiated in 2011, under CEAA (1992a; amended in July 2010 by the *Jobs and Economic Growth Act* [2010]), as a comprehensive study. On July 6, 2012, CEAA (1992a) was repealed and replaced by the *Canadian Environmental Assessment Act, 2012* (CEAA 2012; 2012) which, among other things, focused the federal EA process on two types of EAs: standard or review panel. For Projects with an EA already underway when CEAA 2012 came into force, transition provisions were established. Section 125(1) of CEAA 2012 states that a comprehensive study commenced under the former Act (i.e., before the coming into force of CEAA 2012) is continued and completed as if the former Act had not been repealed, and therefore is subject to any regulations in force at that time.

The federal decision to approve or reject the EA for a major resource project is made by the Minister of the Environment. In making their ministerial referral, the Responsible Authority (RA) for the comprehensive study, the Canadian Environmental Assessment Agency (the CEA Agency), considers the information presented in the EIS and the Comprehensive Study Report (CSR), along with any issues raised throughout the review process, to inform their conclusions regarding the potential for the project to result in significant adverse environmental effects. If the project is allowed to proceed, an EA Decision Statement is issued under section 23(1) of CEAA (1992a). The EA Decision Statement states whether the project is likely to cause significant adverse environmental effects, and any mitigation measures or follow-up program that the Minister considers appropriate. Federal authorities are prohibited from exercising any power or performing any duty or function that could permit a project to be carried out in whole or in part unless the Decision Statement indicates the designated project is not likely to cause significant adverse environmental effects or that significant adverse environmental effects are justified in the circumstances.

The federal regulations below apply to projects undergoing a comprehensive study that commenced prior to CEAA 2012 coming into force.

### **2.2.1 Comprehensive Study List Regulations (SOR/94-638)**

Based on a review of the Project Description (PD) the CEA Agency determined that the Project, as described by the Proponent, is subject to a comprehensive study pursuant to section 16(a) of the Comprehensive Study List Regulations (SOR/94-638) since the Project will involve the “[...] proposed construction, decommissioning, or abandonment of a metal mine, other than a gold mine, with an ore production capacity of 3,000 t/d or more.”

### **2.2.2 Law List Regulations (SOR/94-636)**

Pursuant to section 5 of CEAA (1992a) a federal EA is required if a federal authority contemplates exercising or performing a power, duty, or function with respect to a project. A federal EA is required for the Project since the following may occur:

- Fisheries and Oceans Canada may issue an authorization pursuant to subsection 35(2) of the *Fisheries Act* (1985c) for the carrying on of any work, undertaking or activity that results in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery; and
- Natural Resources Canada may issue a licence under paragraph 7(1)(a) of the *Explosives Act* (1985a).

### **2.2.3 Establishing Timelines for Comprehensive Studies Regulations (SOR/2011-139)**

Under the *Jobs and Economic Growth Act* (2010) amendments to CEAA (1992a), two timelines were introduced for the federal EA process and prescribed in the Establishing Timelines for Comprehensive Studies Regulations (SOR/2011-139). This regulation requires the federal government to decide whether a comprehensive study is required within 90 calendar days of receiving a PD, and legislates 365 calendar days of government time to complete the EA process, from the Notice of Commencement (NoC) to the posting of the CSR for public comment. The NoC for the Project was posted on April 27, 2011, and since then 51 days of government time have elapsed, with 314 days remaining.

### **2.2.4 Operational Policy Statements and Guidance Documents**

This Application/EIS has been prepared using the policy statements and guidance documents referenced by and provided by the CEA Agency and other federal government agencies. Some of these documents provide guidance for the conduct of EAs subject to the former CEAA (1992a; last amended in 2010) and have not been updated to reflect CEAA 2012 provisions; they are included here for general reference purposes.

- *Operational Policy Statement: Assessing Cumulative Environmental Effects under the Canadian Environmental Assessment Act, 2012* (CEA Agency 2013a);
- *Practitioners Glossary for the Environmental Assessment of Designated Projects under the Canadian Environmental Assessment Act, 2012* (CEA Agency 2013b);
- *Operational Policy Statement: Follow-up programs under the Canadian Environmental Assessment Act* (CEA Agency 2011);

- *Considering Aboriginal Traditional Knowledge in Environmental Assessments Conducted under the Canadian Environmental Assessment Act – Interim Principles* (CEA Agency 2010);
- *Operational Policy Statement: Adaptive Management Measures under the Canadian Environmental Assessment Act* (CEA Agency 2009);
- *Public Participation Guide: A Guide for Meaningful Public Participation in Environmental Assessments under the Canadian Environmental Assessment Act* (CEA Agency 2008);
- *Operational Policy Statement: Addressing “Need for”, “Purpose of”, “Alternatives to” and “Alternative Means” under the Canadian Environmental Assessment Act* (CEA Agency 2007a);
- *Addressing Cumulative Environmental Effects under the Canadian Environmental Assessment Act* (CEA Agency 2007b);
- *Assessing Environmental Effects on Physical and Cultural Heritage Resources* (CEA Agency 1996);
- *Determining Whether a Project is Likely to Cause Significant Adverse Environmental Effects* (CEA Agency 1994); and
- *Cumulative Effects Assessment Practitioners’ Guide* (Hegmann et al. 1999).

## 2.3 ENVIRONMENTAL ASSESSMENT PROCESS

### 2.3.1 Cooperative Environmental Assessment

This EA is conducted under the principles of the now expired *Canada–British Columbia Agreement for Environmental Assessment Cooperation* (the Agreement; Government of British Columbia and Government of Canada 2004). Under the Agreement, both the Government of Canada and the Government of British Columbia conduct a single, cooperative assessment, where possible, to meet the EA requirements of both levels of government while allowing for independent decision making on matters within their own legislative authority. The Agreement aligns key aspects of the EA process to minimize duplication and improve efficiency (e.g., conducting joint public comment periods, coordinating Aboriginal consultation, using common documents that meet the requirements of both governments, and establishing common working groups to facilitate the review process).

Subject to section 12(1)(2) of the Agreement, where the proposed project is located on lands within provincial boundaries, the Government of British Columbia is the Lead Party for the EA process. Although the Agreement is now expired, both governments continue to coordinate EA processes in keeping with the principles of the Agreement.

In general, the provincial and federal EA processes include four main elements:

- provide opportunities to all interested parties, including Aboriginal groups, to identify issues and provide input;
- technical assessment of the potential environmental effects, and additional social, economic, heritage, and health effects of the proposed project;
- implementation of mitigation measures that avoid, minimize, control, or compensate for adverse effects, and that enhance beneficial outcomes; and

- consideration of issues and comments raised by interested parties when evaluating the significance of likely adverse effects, and when making recommendations about whether the project may proceed.

The provincial and the federal EA processes move through several steps:

- determination of whether an EA is required;
- establishing the Working Group that will be involved in the EA review process;
- preparation and planning for the Application/EIS by developing information requirements (e.g., drafting the Application Information Requirements [AIR] or EIS Guidelines document);
- review and analysis of the Application/EIS;
- preparation of the Assessment (provincial) and Comprehensive Study (federal) reports; and
- referral to the appropriate provincial and federal ministers for a decision.

#### 2.3.1.1 *Joint Environmental Assessment Working Group*

The BC EAO and the CEA Agency established the EA Working Group and began having Project-related meetings on December 11, 2008. The Project was later put on hold by the Proponent in late 2009 for about a year, and meetings with the EA Working Group resumed on April 7, 2011 (refer to Chapter 3, Information Distribution and Consultation, for more information). The purpose of the EA Working Group is to review and comment on key EA documents, including the AIR, the Application/EIS, and the Assessment and Comprehensive Study reports, respectively.

Typical membership of an EA Working Group includes representatives from all levels of government (federal, provincial, regional, and municipal), potentially affected Aboriginal groups, and other stakeholders as required. The members of the Harper Creek EA Working Group are identified in Table 2.3-1.

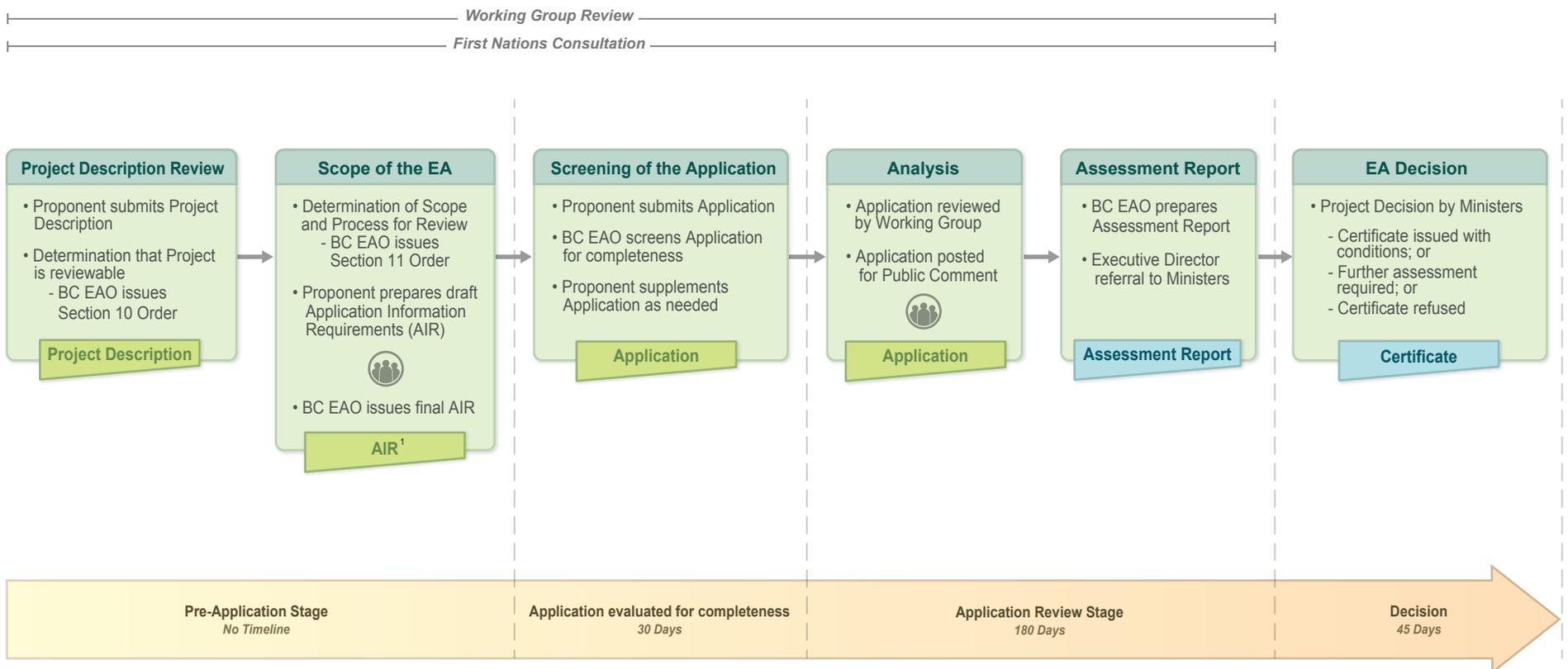
#### 2.3.2 **Provincial Environmental Assessment Process**

The provincial EA process is divided into three stages: the Pre-Application, Application Review, and Decision stages. The stages and steps of the provincial EA process are shown in Figure 2.3-1, and a description of important milestones is provided below.

The Proponent engaged in pre-EA activities in an effort to prepare for the EA process. In May 2006, the Proponent started developing and implementing consultation and engagement programs with Aboriginal groups, the public, and stakeholders; from 2007, environmental baseline studies were undertaken. These include field-based surveys for surface water and groundwater quality and quantity, climate and air quality, geochemistry, fisheries and aquatics, terrestrial vegetation, plants and wildlife, archaeology, and traditional land use.

Figure 2.3-1

Provincial Environmental Assessment Process for the Harper Creek Project



BC EAO: British Columbia Environmental Assessment Office  
 AIR: Application Information Requirements  
 EA: Environmental Assessment  
 BC EAO Deliverable  
 Proponent Deliverable  
 Public Comment Period

Note: <sup>1</sup> Preparation of the AIR is procedurally delegated to the proponent by the BC EAO.

**Table 2.3-1. Working Group Members**

Type	Organization
Provincial agencies	BC EAO
	British Columbia Ministry of Forests, Lands and Natural Resource Operations (BC MFLNRO)
	British Columbia Ministry of Energy and Mines (BC MEM)
	British Columbia Ministry of Environment (BC MOE)
	British Columbia Ministry of Transportation and Infrastructure
	Interior Health Authority
Federal agencies	CEA Agency
	Environment Canada
	Fisheries and Oceans Canada
	Natural Resources Canada
	Major Projects Management Office
	Aboriginal Affairs and Northern Development Canada
	Health Canada, BC Region
Local government	District of Clearwater
	District of Barriere
First Nations	Simpcw First Nation
	Adams Lake Indian Band
	Neskonlith Indian Band
	Little Shuswap Indian Band
	Tk'emlups Indian Band

#### 2.3.2.1 Pre-Application Stage

The Proponent entered the Pre-Application stage of the provincial process with the submission of a PD to the BC EAO. The draft PD was submitted in September 2008 to support early feedback on provincial information requirements. After reviewing the draft PD, an Order under section 10(1)(c) of the BC EAA was issued by the BC EAO on September 18, 2008 indicating the Project was reviewable. The order stated that the Project required an EA Certificate and that the Proponent may not proceed with the Project without an assessment. On September 11, 2009 the BC EAO issued an Order pursuant to section 11 of the BC EAA, which prescribed the scope, procedures, and methods to undertake the provincial EA, including public, government agency, and First Nations consultation requirements.

#### Scope of Project

The scope of the Project defined in the section 11 Order includes the following on-site and off-site components and activities:

- approximately 70,000-tonnes-per-day open pit mine, mineral processing plant, crusher, grinder, and ore stockpile;

- mill tailing and waste rock storage facilities, including containment dams and other associated structures;
- site runoff, diversion and sediment control, and water management structures;
- mine haul roads within the mineral property;
- borrow pits, overburden and topsoil storage;
- electrical power transmission line from the existing Vavenby sub-station to the Project Site, access roads, substation(s), and activities associated with constructing or maintaining these facilities;
- infrastructure and facilities and services, including a fuel storage facility, and support facilities such as laboratories, safety and environmental control, potable water, sewage treatment facilities and waste disposal, maintenance, staff accommodation, administration offices, communication, and fire protection;
- freshwater extraction, transportation, and storage facilities;
- concentrate storage facilities;
- bulk explosive storage and manufacture facilities;
- hazardous material storage and/or distribution;
- upgrading of the existing FSRs to provide an access road capable of safely accommodating mine traffic ;
- rail load-out facility near Vavenby;
- transportation of equipment, supplies, and concentrate by truck from the Project Site to the rail load-out facility; and
- associated off-site facilities or off-site activities related to the Project.

Following the issuance of the section 11 Order, the Project was put on hold by the Proponent until late 2010. The draft PD was subsequently updated and the final version was issued to the BC EAO on January 24, 2011; the section 10 and 11 Orders remained unchanged.

### Application Information Requirements

The AIR (formerly referred to as a Terms of Reference) identifies the information required to be submitted in the Application. In accordance with the EA process, the Proponent prepared a draft Application Information Requirements (dAIR) for the Project, which was submitted to the BC EAO and distributed to the EA Working Group for review on February 15, 2011. A Working Group meeting was held on April 7, 2011, to review the information on the Project. Comments on the dAIR were compiled into an issues tracking table for response by the Proponent. The updated dAIR was re-submitted to the BC EAO and posted on the BC EAO's e-PIC website on May 19, 2011.

The BC EAO initiated a 30-day public comment period on the dAIR, held from May 31 until June 30, 2011, and public comments were posted to the e-PIC website on July 4, 2011. A Working Group site visit and meeting was held on August 17 and 18, 2011, to discuss the dAIR and the

comments received. A summary of the issues raised during the review of the dAIR are provided in Chapter 3, Information Distribution and Consultation. The final AIR was approved and issued by the BC EAO on October 21, 2011 following the feedback received from the EA Working Group, First Nations, and the public.

On September 14, 2012, capacity funding in the amount of \$5,000 was offered by the BC EAO to the Simpcw First Nation, Adams Lake Indian Band, Neskonlith Indian Band, and Little Shuswap Indian Band to support participation in the EA process.

### Preparation of the Application

In order to prepare the Application, a Working Group meeting was held on May 14 and 15, 2012 to discuss the baseline study results to date. After receiving the final AIR, all required baseline studies were completed by the Proponent and were used to support the effects assessment for each valued component (VC) presented in this Application/EIS. Following the data collection effort and analysis, mitigation measures required to avoid, reduce, control, or offset any adverse effects were identified. Additional ongoing monitoring requirements were also identified.

On October 15, 2012, the BC EAO issued a section 13 Order, which amended the section 11 Order dated September 11, 2009 as follows:

- addition of the Neskonlith Indian Band and the Little Shuswap Indian Band in the definition of First Nations; and
- addition of a provision to the section 11 Order requiring the BC EAO to consult directly with Tk'emlups Indian Band regarding potential effects on Aboriginal interests arising from the downstream impacts of the proposed Project.

Public and Aboriginal consultation activities also continued during this period. An Aboriginal Consultation Plan for the Application Review stage was submitted to First Nations for review and comment, and all comments received were provided to the BC EAO Project Assessment Manager, as stipulated under section 14.2 of the Project's section 11 Order.

A Public Consultation Plan for the Application Review stage specifying the location and timing of the proposed open houses and other consultation activities was also prepared as required under section 15.5 of the section 11 Order. The BC EAO assessed the plan to determine the adequacy of the proposed consultation activities. More detailed information on the public and Aboriginal consultation programs is included within Chapter 3 of the Application/EIS.

A final meeting prior to submission of the original Application was held with the Working Group on November 1, 2012, to review the information in the Application and discuss mitigation strategies.

The Proponent prepared the Application between Q4 2011 to Q1 2013, and on March 28, 2013, the Proponent submitted the Application to the BC EAO.

### Screening of the Application

After the proponent submits the Application for an EA Certificate, the Executive Director must evaluate the Application for completeness and decide within 30 days whether to accept it for review; this is referred to as the screening period as required by the BC EAA. The screening period may be extended at the discretion of the BC EAO or as requested by the proponent. Following the submission of the Application to the BC EAO for screening, an extension was granted on two occasions (April 16, 2013 and May 10, 2013) by the Executive Director as per section 24(4) of the BC EAA. The screening period was extended for a total of nine additional days.

During the screening period, comments were received from the EA Working Group. These identified additional information which was required before the Application could be accepted for review. The issues identified during screening included, but were not limited to, requests for:

- additional information and details on rationale for Project design and mitigation choices;
- additional information to enable a decision on potential health impacts of the Project;
- additional work required to determine the function of the rock cairns;
- additional information on how aquifers in the vicinity of the Project were assessed; and
- additional information on slope stability.

In a letter dated May 16, 2013, BC EAO “concluded that the Application submitted in March 2013 did not provide an appropriately meaningful treatment of the requirements in the AIR, and has decided not to accept the Application for review.”

This Application/EIS addresses the additional information requirements identified during screening of the original Application; responses to screening comments are provided in an issues tracking table and can be found in [Appendix 2-A](#).

A Table of Concordance submitted as part of the Application will be used by the EA Working Group to screen the Application against the AIR to determine whether the required information has been adequately provided. If the BC EAO determines the Application to be insufficient, the Proponent will be required to address the information deficiencies. If the Application contains all of the required information, the BC EAO will notify the proponent that the Application has been accepted for a formal, detailed review by the EA Working Group.

On September 17, 2014 a Working Group meeting was held in Kamloops to review the updated Project design and to provide a preliminary overview of the effects assessment for key valued components, including hydrology, hydrogeology, surface water quality, fish and aquatic resources, heritage, and human health.

#### 2.3.2.2 *Application Review Stage*

Under the BC EAA, if the Application is accepted for review by the BC EAO, a legislated 180-day review period commences. The proponent provides paper and electronic copies of the Application to the EA Working Group, Aboriginal groups, public libraries, and other stakeholders as directed by

the BC EAO. The Application is also uploaded to the BC EAO's e-PIC website to support public consultation requirements.

During the review stage, a public comment period on the Application will be held to provide the public with an opportunity to review and comment on the Application. The duration of the public comment period is established by the Executive Director under a section 11 Order. The proponent must have at least one formal comment period of 30 days, and must provide the Project Assessment Manager a written report on the results of its public consultation activities, identifying views, issues, and concerns raised by the public.

EA Working Group meetings will also be held throughout the 180-day period to discuss substantive technical issues and to provide advice to the proponent. Working Group members will submit technical written comments for response by the proponent, which can take the form of technical memorandums, issues tracking tables, and/or addendums to the Application. The proponent will be invited to participate in, and present information at the EA Working Group technical sub-committee meetings.

Aboriginal consultation activities will continue throughout the review of the Application by both the provincial Crown and the proponent. A consultation report summarizing the issues raised throughout the Application review stage by Aboriginal groups and how these have been addressed by the proponent needs to be submitted to the BC EAO within 120 days of the commencement of the Application review stage.

The Proponent expects to submit this Application in early Q4 2014, and therefore anticipates going through the Application review stage between Q4 2014 to Q2 2015.

Pursuant to section 24(2) of the BC EAA, the BC EAO may suspend the 180-day review period if additional information is required from the proponent.

### Assessment Report

During the latter half of the Application review stage, the BC EAO prepares an Assessment Report that summarizes the residual effects of the proposed project, identifies proposed mitigation measures, evaluates the significance of residual adverse effects, summarizes all public concerns and how they have been addressed, and identifies any outstanding issues. A summary of all Aboriginal consultation issues that were raised during the EA process is also included, along with the identification of any unresolved technical or consultation issues. The Assessment Report contains recommendations for the relevant Ministers to consider when deciding if an EA Certificate should be granted.

The BC EAO will also request that the proponent compile a Certified Project Description (CPD) and Table of Conditions (ToC) to support the EA Certificate. The CPD is a description of the physical works of the project and describes how the project must be constructed, operated, decommissioned, and reclaimed. Environmental management plans for key issues may also be contained within the CPD. The ToC identifies conditions that the proponent must adhere to, in addition to identifying key mitigation measures and monitoring requirements that the proponent must follow during different phases of the project.

All of these reports are provided to the EA Working Group, Aboriginal groups, and to the proponent for their review and comment prior to being finalized and referred to the Ministers for a decision.

### Ministers' Decision

The BC EAO will compile a referral package for the Minister of the Environment and the Minister of Energy and Mines that includes the Assessment Report and a draft EA Certificate. The latter includes schedules with details on the design and construction of the project, and the commitments the proponent has made to address concerns raised through the EA process. The Ministers' decision is made within 45 days of a referral and is posted to the BC EAO's e-PIC website. Once issued, the EA Certificate is a legally binding document granting conditional approval for the project to proceed.

#### 2.3.2.3 *Provincial Milestones*

The provincial EA process milestones that have been achieved to date are summarized in Table 2.3-2 (for information on Community Meetings and Open Houses refer to Chapter 3, Information Distribution and Consultation).

**Table 2.3-2. Provincial Environmental Assessment Process Milestones for the Harper Creek Project**

Provincial EA Process Milestones	Date
BC EAO receives draft PD	September, 2008
BC EAO issues section 10 Order	September 18, 2008
BC EAO issues section 11 Order	September 11, 2009
Project put on hold at the request of the Proponent	Late 2009 – Late 2010
BC EAO receives updated PD	January 24, 2011
Working Group meeting to review information in the PD	April 7, 2011
BC EAO receives draft AIR and distributes it to the EA Working Group for review	February 15, 2011
BC EAO posts draft AIR to e-PIC	May 19, 2011
BC EAO initiates public comment period on the draft AIR	May 31 – June 30, 2011
Working Group Site Visit	August 17, 2011
Working Group Meeting to review dAIR	August 18, 2011
BC EAO issues final AIR and posts to e-PIC	October 21, 2011
Working Group meeting to review information on Baseline Studies	May 14-15, 2012
BC EAO issues section 13 Order	October 15, 2012
Working Group Meeting to review information in the Application	November 1, 2012
BC EAO receives Application for screening	April 8, 2013
BC EAO concludes the Application does not appropriately address all AIR requirements and is not accepted for review	May 16, 2013
Working Group Meeting to review revised Application/EIS	September 17, 2014

### 2.3.3 Federal Comprehensive Study Environmental Assessment Process

While there are no prescribed phases of the comprehensive EA process under CEAA (1992a), a description of important milestones is provided below. The different steps of the federal EA process are shown in Figure 2.3-2.

#### Project Description

The federal EA process, presented in Figure 2.3-2, commenced at the submission of the Harper Creek PD to the CEA Agency in September 2008. The Project was later put on hold by the Proponent from late 2009 until late 2010; the Project re-entered the EA process and the PD was subsequently updated in early 2011. A revised submission was issued to the CEA Agency on January 14, 2011. The updated PD was screened and accepted for a 90-day review period by the CEA Agency for the purposes of determining whether a federal EA at the comprehensive study level was required for the Project.

#### Notice of Commencement

Having determined that a federal EA was required, a Notice of Commencement was issued by the CEA Agency on April 14, 2011 and posted to the Canadian Environmental Assessment Registry Internet Site (CEARIS) on April 27, 2011. The NoC initiated the beginning of a 365-calendar day, government time limit; under the Establishing Timelines for Comprehensive Studies Regulations, the “clock” can be stopped at the request of the proponent or by the CEA Agency if it is deemed there is insufficient information for the EA process to proceed. Since the NoC was posted, 51 days of government time has elapsed.

#### Background Information

As required by the *Jobs and Economic Growth Act* (2010) amendments to CEAA (1992a), a Background Information scoping document was posted to CEARIS on April 28, 2011. The Background Information document identifies the scope of the assessment, factors to be considered, and information related to public participation and Aboriginal consultation. The Background Information document also provides the public with an opportunity to comment on the conduct of the comprehensive study. A federal public comment period on the Background Information was held between April 28 and May 30, 2011 to seek comments from the public on the Project and its potential environmental effects, to ensure that relevant issues were identified for consideration in the EIS.

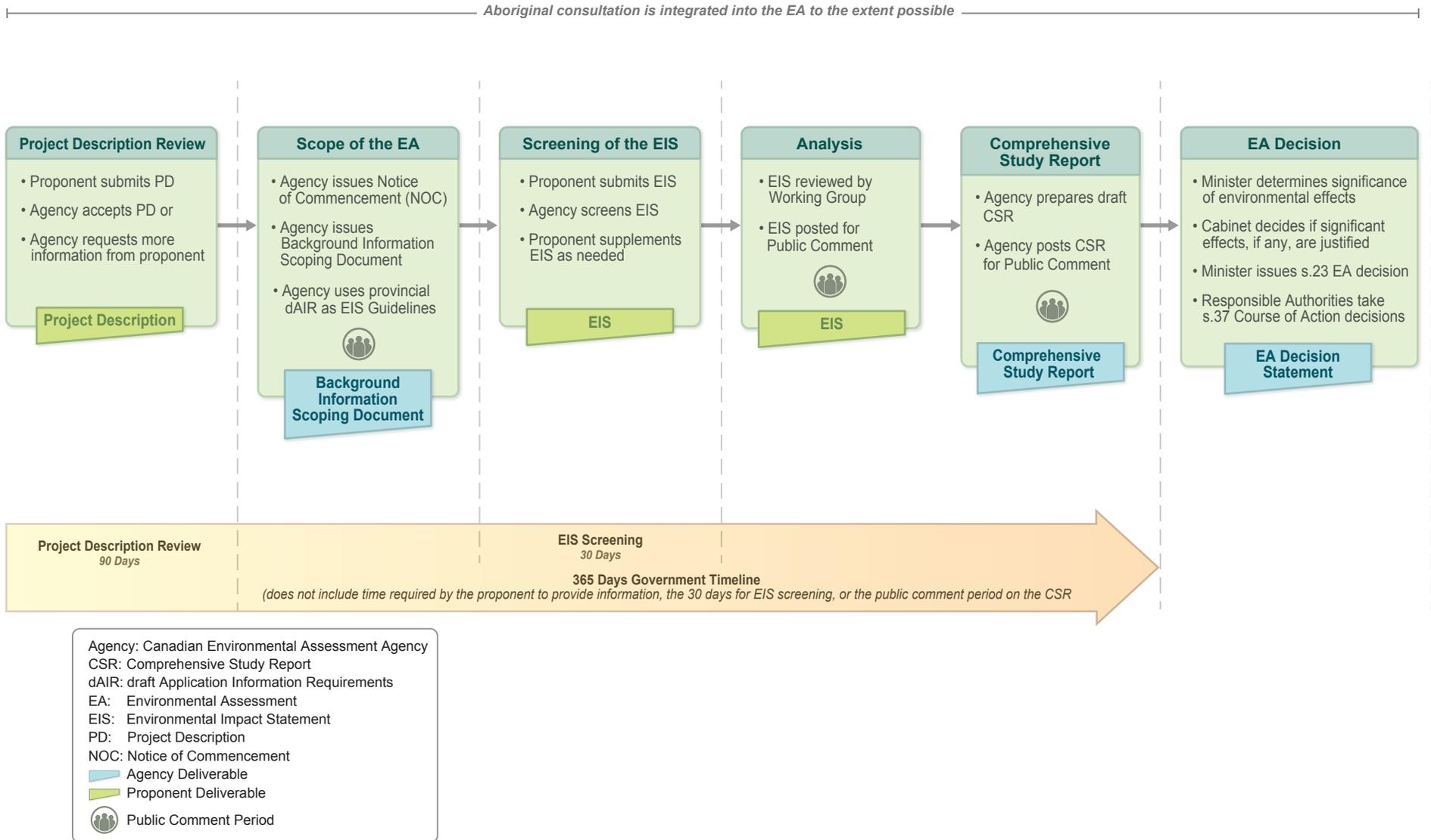
#### Scope of Project

As specified in section 2.0 of the Background Information, the CEA Agency defines the scope of the Project to include the following Project components:

- open pit mine (18 to 24 years at 70,000 tonnes ore/day);
- processing plant;
- tailings storage facility;
- water management facility;
- waste rock storage area and management facilities;

Figure 2.3-2

Federal Comprehensive Study Environmental Assessment Process for the Harper Creek Project



- road and potential bridge upgrades;
- Project Site facilities (temporary construction camp, explosives storage facility, etc.);
- BC Hydro power line upgrade from 100 Mile House to Clearwater where it joins the existing line along the North Thompson River;
- power line to connect to the BC Hydro power grid at the Vavenby substation;
- ore concentrate storage facility in Vavenby; and
- rail load-out facility upgrade in Vavenby and rail transport to Port Metro Vancouver.

### Major Projects Management Office

The Major Projects Management Office (MPMO) was established in 2007 to provide overarching project management and accountability in the federal EA and regulatory review process. In accordance with the *Cabinet Directive on Improving the Performance of the Regulatory System for Major Resource Projects* (Government of Canada 2012a), the Project has been designated as a Major Resource Project.

Under the Government of Canada's Major Resource Project initiative, the MPMO is involved in the federal EA process and works with federal agencies to coordinate agreements and timelines and to tracking the federal regulatory review process. On June 2011, a Project Agreement was signed (Government of Canada 2012b) between federal authorities participating in the EA process for the Project, which articulates the roles and responsibilities of each federal agency.

### Preparation of the Environmental Impact Statement

After the Background Information document is finalized, the Proponent must complete all required baseline studies and conducts an effects assessment for each VC to identify whether the Project is likely to result in any potentially significant adverse effects. Mitigation measures required to avoid, reduce, or control any adverse effects were identified. Additional monitoring requirements were also identified. Public and Aboriginal consultation activities were ongoing during this period.

### Screening of the Environmental Impact Statement

As prescribed in the Establishing Timelines for Comprehensive Studies Regulations (SOR/2011-139), the review of the EIS starts with a 30-day screening by the CEA Agency to determine whether the information contained in the EIS is complete. As members of the EA Working Group, the CEA Agency and federal agencies conducted a 30-day screening period of the EIS submitted in March 2013.

During the screening period in April 2013, comments were received from the CEA Agency and federal agencies. These identified additional information which was required before the EIS could be accepted for review. The issues identified during screening included, but were not limited to, requests for:

- additional information and details on mitigation strategy;
- additional information on the geohazard assessment;

- additional information and details on the Project facilities;
- additional information on First Nations Consultation;
- additional information and details on the methodology for the VCs scoping and effects assessment;
- additional information on the geochemistry assessment;
- additional work required on the aquatic environment assessment;
- additional work required on the terrestrial environment assessment; and
- additional information to evaluate the risks of potential accidents and malfunctions.

This EIS addresses the additional information requirements identified during screening of the original EIS; responses to screening comments are provided in an issues tracking table and can be found in [Appendix 2-A](#).

The EIS will be subject to another screening by the CEA Agency upon submission of the EIS. If the CEA Agency determines the EIS is inadequate, the EIS is rejected, and the proponent is directed to address information deficiencies. If the EIS contains all of the required information, the CEA Agency will notify the proponent that the EIS is accepted for a detailed review by the federal members of the EA Working Group.

Public and Aboriginal consultation activities will continue during the review of the EIS and be supported by an opportunity for the public to comment on the EIS.

#### Review of the Environmental Impact Statement

The proponent provides paper and electronic copies of the EIS to the EA Working Group, Aboriginal groups, and other stakeholders as directed by the CEA Agency.

During the review period, a joint federal-provincial public comment period on the Application/EIS will be held to provide the public with an opportunity to review and comment on the Application/EIS. Comments are compiled, tracked, and responded to by the proponent using an issues-tracking table. The EA Working Group reviews the responses provided by the proponent and determines whether they are adequate. EA Working Group meetings are held throughout the review of the Application/EIS to discuss and resolve outstanding technical issues. Aboriginal consultation activities by the provincial and federal governments and by the proponent are ongoing during this period.

#### Comprehensive Study Report

The CEA Agency prepares a CSR which summarizes all residual effects of the proposed project, identifies proposed mitigation, includes an evaluation of significance of adverse effects, summarizes all public concerns and how they have been addressed, and identifies outstanding issues. A summary of all Aboriginal consultation issues that were raised during the EA process is also included. The CSR is provided to the EA Working Group, to Aboriginal groups, and to the proponent for their review and comment. A final opportunity for the public and Aboriginal groups to comment on the federal CSR is provided over a 30-day public comment period via CEARIS.

### Minister's Decision

The CSR is submitted to the federal Minister of the Environment seeking a decision under section 23(1) of CEAA (1992a) for the project. After taking into consideration the CSR and any public comments, the Minister of the Environment will issue an EA decision statement that sets out:

- the Minister's opinion as to whether, taking into account the implementation of any mitigation measures that the Minister considers appropriate, the project is, or is not, likely to cause significant adverse environmental effects; and
- any mitigation measures or follow-up program that the Minister considers appropriate, after having taken into account the views of the responsible authorities and other federal authorities concerning the measures and program.

The Minister then refers the project back to the RAs to take their course of action decisions under section 37 of CEAA (1992a). In this case, the Project will be referred back to Fisheries and Oceans Canada to take a course of action decision regarding whether to permit the project to proceed (i.e., issue an authorization under the *Fisheries Act* [1985c]), and to Natural Resources Canada to take a course of action decision regarding whether to issue a licence under paragraph 7(1)(a) of the *Explosives Act* (1985a).

#### 2.3.3.1 Federal Milestones

The federal milestones that have been achieved through the EA process to date are summarized in Table 2.3-3 (for information on Community Meetings and Open Houses refer to Chapter 3, Information Distribution and Consultation).

**Table 2.3-3. Federal Environmental Assessment Process Milestones for the Harper Creek Project**

Federal EA Process Milestones	Date
CEA Agency receives original PD	September 18, 2008
CEA Agency receives updated PD	January 14, 2011
CEA Agency determines Comprehensive Study required and commences EA	April 14, 2011
CEA Agency posts Notice of Commencement to CEARIS	April 27, 2011
CEA Agency issues Background Information scoping document	April 28, 2011
CEA Agency informs public federal funding is available	April 28, 2011
CEA Agency holds public comment period on the Background Information document	April 28- May 30, 2011
CEA Agency issues federal funding to participate in the EA*	August 10, 2011
CEA Agency receives original EIS for a 30-day screening	March 28, 2013
CEA Agency concludes the Application does not appropriately address all AIR requirements and is not accepted for review	May 16, 2013

\* Refer to section 2.3.4 below.

### 2.3.4 Federal Participant Funding Program

Pursuant to subsection 58(1.1) of CEAA (1992a), a participant funding program (PFP) was established for comprehensive studies to facilitate the participation of the public and to support consultation activities for potentially affected Aboriginal groups in federal and joint EA processes. A Funding Review Committee (FRC), independent of the review process, is established to assess applications for funding, and to recommend funding allocations for applicants. Disbursements are allocated to support participation and/or consultation activities for both pre- and post-EIS submission. Two funding envelopes are established: a Regular Funding Envelope (RFE) to support members of the public, and an Aboriginal Funding Envelope (AFE).

Funding from the AFE may be provided to Aboriginal groups who plan to engage in Aboriginal consultation activities with the federal government that are linked to the EA of a proposed project. The funds can be used to support their engagement in consultation activities and to provide input into the EA process. The RFE is established to provide funding for individuals, Aboriginal groups, and incorporated not-for-profit organizations to participate in the EA review process. Parties applying to either funding envelope must meet certain eligibility criteria:

- have a direct, local interest in the project, such as a residence in the area or historical or cultural ties to the area likely affected by the project;
- have community knowledge or Aboriginal traditional knowledge relevant to the EA; and/or
- have expert information relevant to the anticipated environmental effects of the proposed project.

#### Aboriginal Funding Envelope

On April 27, 2011, a total of up to \$135,100 was made available under the AFE for the Project EA to support Aboriginal participation and related consultation activities in the EA, including:

- preparing for and participating in internal community meetings;
- preparing for and participating in consultation meetings;
- reviewing and commenting on the dAIR (used by the federal agencies as the EIS Guidelines for this Project);
- reviewing and commenting on the EIS; and
- reviewing and commenting on the CSR.

Three Aboriginal groups applied for funding; all three groups were found to be eligible for PFP-AFE funding, and a total of \$126,325 was granted to support Aboriginal participation in the EA and related consultation and community engagement activities. The FRC's decision was posted on CEARIS on August 10, 2011. The allocated funds are identified in Table 2.3-4.

**Table 2.3-4. Participant Funding Program Allocations – Aboriginal Funding Envelope**

Applicant	Allocation
Métis Nation British Columbia	\$14,550
Simpco First Nation	\$70,525
Adams Lake Indian Band	\$41,250
<b>Total</b>	<b>\$126,325</b>

### Regular Funding Envelope

On April 28, 2011, a total of up to \$50,000 was made available under the RFE to facilitate the participation of the public in the Comprehensive Study EA review process, including:

- attending community-specific meetings (e.g., open houses);
- reviewing and commenting on the EIS; and
- reviewing and commenting on the CSR prepared by the CEA Agency.

Two applications were received; both were found to be eligible for PFP-RFE funding, and a total of \$20,110.85 was granted to support public participation in the EA. The FRC's decision was posted on CEARIS on August 10, 2011. The allocated funds are identified in Table 2.3-5.

**Table 2.3-5. Participant Funding Program Allocation – Regular Funding Envelope**

Applicant	Allocation
MiningWatch Canada	\$16,540
Mr. Trevor Goward	\$3,571.85
<b>Total</b>	<b>\$20,110.85</b>

## **2.4 AUTHORIZATIONS**

### **2.4.1 Provincial Authorizations**

In 2011, under a Memorandum of Understanding between the BC MEM and the BC MFLNRO – which was amended in 2012 and again in 2013 – it was agreed that, once a major mine project advanced to a stage where multiple authorizations were required, the Chief Inspector of Mines could establish a project-specific Mine Review Committee (MRC) to coordinate and review the applications and provide advice to statutory decision makers. As well, the Chief Inspector of Mines could request that the BC MFLNRO chair the committee and lead First Nations consultations on behalf of the BC MEM. Once a project-specific MRC is established, the BC MFLNRO assigns a project manager to manage the review process and a consultation advisor to lead First Nations consultations.

While the Proponent is not requesting concurrent permitting under the Concurrent Approval Regulation (BC Reg. 371/2002), the Proponent is seeking a coordinated authorizations process from the Province of British Columbia through the “One Process” model initiative led by the MRC. This initiative coordinates the review and consultation of authorizations provided by the province

for the development of major projects. This enables the Proponent to advance permit applications for required authorizations while the EA process proceeds. The review of authorizations can be initiated prior to the issuance of an EA Certificate, but authorizations cannot be approved, and project construction work cannot be commenced, until after the EA Certificate is issued.

The Proponent will engage in the coordinated authorizations process to apply for the multiple Project-specific provincial authorizations required to progress the Project, including authorizations under the *Mines Act* (1996e), the *Environmental Management Act* (2003), the *Water Act* (1996f), and the *Land Act* (1996c). The Proponent anticipates that this will be carried out in phases, with specific applications for permits, licences, and other authorizations being effectively bundled together to allow for a coordinated review by the various natural resource agencies involved.

Table 2.4-1 below outlines a comprehensive list of potential provincial authorizations required for the various Project components. The list is not intended to be exhaustive due to the complexity of government regulatory processes and the large number of minor permits, licences, approvals, consents and authorizations, and potential amendments that will be required throughout the life of the mine.

**Table 2.4-1. Potential Provincial Authorizations Required under the Coordinated Authorizations Processes**

Permit Required	Enabling Legislation	Potentially Impacted Project Component
Road Use Permit	<i>Forest and Range Practices Act</i> (2002b)	General off-site mine access roads outside the Mining Lease area
Special Use Permit	<i>Forest Practices Code of BC Act</i> (1996h) - Provincial Forest Use Regulation (BC Reg. 176/95)	General off-site mine access roads
Occupant Licence to Cut	<i>Forest Act</i> (1996a)	Project areas requiring tree removal, including, access road and power transmission corridor alignments, and the Project Site
Wildlife Salvage and Removal	<i>Wildlife Act</i> (1996i)	General Project Site haul and access roads
Licence of Occupation	<i>Land Act</i> (1996c)	Camps, transmission line, staging areas outside the mining lease and <i>Mines Act</i> permit area
Waterworks Construction Permit	<i>Drinking Water Protection Act</i> (2001)	Potable water supply systems
Water System Operation Permit	<i>Drinking Water Protection Act</i> (2001)	Potable water supply systems
Sewage Permit	<i>Public Health Act</i> (2008) , <i>Environmental Management Act</i> (2003) , Municipal Wastewater Regulation (BC Reg. 87/2012)	Sewage treatment plants
Sewage Registration	<i>Environmental Management Act</i> (2003) - Municipal Wastewater Regulations (BC Reg. 87/2012)	Sewage treatment plants

(continued)

**Table 2.4-1. Potential Provincial Authorizations Required under the Coordinated Authorizations Processes (continued)**

Permit Required	Enabling Legislation	Potentially Impacted Project Component
Water Licence	<i>Water Act (1996f) and Drinking Water Protection Act (2001)</i>	Infrastructure and facilities that store, use and/or divert surface water
Hazardous Waste and Spill Management	<i>Hazardous Products Act (1985b), Hazardous Waste Regulations (BC Reg. 63/88), Spill Reporting Regulations (BC Reg. 263/90)</i>	Project Site in general, including camps, garbage and incinerator area, and fuel storage area
Air Permit	<i>Environmental Management Act (2003)</i>	Incinerators, baghouses
Permit Approving Work System and Reclamation Program	<i>Mines Act (1996e)</i>	All areas within the <i>Mines Act</i> Permit area disturbed by mining unless exempted
Mining Lease	<i>Mineral Tenure Act (1996d)</i>	General Project Site within which minerals will be produced
Mineral Exploration (Notice of Work)	<i>Mines Act (1996e)</i>	General Project Site for mineral exploration purposes (Mining Lease and <i>Mines Act</i> Permit for operating mine will supercede this on the same area of land)
Explosives Storage and Use Permit	<i>Mines Act (1996e)</i>	Surface and underground explosive storage
<i>Mines Act</i> section 10	<i>Mines Act (1996e)</i>	General, for any mineral exploration or mine development activity on land with a valid mineral tenure
Refuse Permit	<i>Environmental Management Act (2003)</i>	Landfill
Effluent Permit	<i>Environmental Management Act (2003)</i>	Water and sewage treatment plants and tailings pond management
Fuel Storage Registration	<i>Environmental Management Act (2003) - Petroleum Storage and Distribution Facilities Storm Water Regulation (BC Reg. 168/94)</i>	Fuel storage areas at Project Site, transfer station, aerodrome, and staging area
Hazardous Waste Registration	<i>Environmental Management Act (2003) - Hazardous Waste Regulation (BC Reg. 63/88)</i> <i>Transportation of Dangerous Goods Act (1992b)</i>	General Pre-packaged explosives, flammable liquids and solids and radioactive materials
Section 14 Inspection Permit	<i>Heritage Conservation Act (1996g)</i>	Areas of archaeological importance
Section 14 Investigative Permit	<i>Heritage Conservation Act (1996g)</i>	Areas of high archaeological significance
Section 12 Alteration Permit	<i>Heritage Conservation Act (1996g)</i>	Locations with archaeological finds
Investigative Use Permit	<i>Land Act (1996c)</i>	Crown Land
Food Premises Permit	<i>Health Act (1996b) - Food Premises Regulation (BC Reg. 210/99) and Drinking Water Protection Act (2001)</i>	On-site catering facilities

(continued)

**Table 2.4-1. Potential Provincial Authorizations Required under the Coordinated Authorizations Processes (completed)**

Permit Required	Enabling Legislation	Potentially Impacted Project Component
Filing of Certification Letter	<i>Public Health Act</i> (2008) - Sewerage System Regulation (BC Reg. 326/2004)	Camps < 100 persons
Access Permit	<i>Transportation Act</i> (2004) and <i>Motor Vehicle Act</i> (1996f)	Access road beginning at Highway 5 and Birch Island Lost Creek Road
Utility Permit	<i>Transportation Act</i> (2004) and <i>Motor Vehicle Act</i> (1996f)	Power transmission line and related infrastructure
Approval or Notification of "changes in or about a stream"	<i>Water Act</i> (1996f) and <i>Water Regulation</i> (BC Reg. 204/88)	Components that involve work in or about a stream involving water diversion
Groundwater Well Registration	<i>Water Act</i> (1996f)	Groundwater wells
Special Waste Generator Permit	<i>Environmental Management Act</i> (2003) <i>Municipal Wastewater Regulation</i> (BC Reg. 27/2012)	Waste oils
Works on Right-of-Way Permit	<i>Transportation Act</i> (2004)	Road improvements

## 2.4.2 Federal Authorizations

Table 2.4-2 presents a list of federal authorizations, licences, and permits that are anticipated to be required to develop the Project.

**Table 2.4-2. Anticipated Federal Authorization Requirements**

Federal Authorizations	Legislation/Regulations	Project Component
Environmental Assessment Decision Statement	<i>Canadian Environmental Assessment Act</i> (1992a)	General
Explosives Magazine Licence	<i>Explosives Act</i> (1985a)	Storage of pre-packaged explosives
Authorization under paragraph 35(2)(b)	<i>Fisheries Act</i> (1985c)	Work or activity being carried out which may cause serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery
Radio Licences	<i>Radiocommunication Act</i> (1985d)	On-site radio communication system

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- 1985b. *Hazardous Products Act*, RSC. C. H-3.
- 1985c. *Navigation Protection Act*, RSC. C. N-22.
- 1985d. *Radiocommunication Act*, RSC. C. R-2
- 1992a. *Canadian Environmental Assessment Act*, SC. C. 37.
- 1992b. *Transportation of Dangerous Goods Act*, SC. C. 34.
- 1996a. *Forest Act*, RSBC. C. 157.
- 1996b. *Health Act*, RSBC. C. 179.
- 1996c. *Land Act*, RSBC. C. 245.
- 1996d. *Mineral Tenure Act*, RSBC. C. 292.
- 1996e. *Mines Act*, RSBC. C. 293.
- 1996f. *Motor Vehicle Act*, RSBC. C. 318.
- 1996g. *Water Act*, RSBC. C. 483.
- 1996h. *Weed Control Act*, C. 487.
- 1996i. *Wildlife Act*, RSBC. C. 488. s. 1.1.
2001. *Drinking Water Protection Act*, SBC. C. 9.
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