

**IN THE MATTER OF  
THE ENVIRONMENTAL ASSESSMENT ACT, RSBC 1996, c. 119 (the “Act”)**

**AND**

**IN THE MATTER OF  
AN APPLICATION FOR A PROJECT APPROVAL CERTIFICATE BY  
REDFERN RESOURCES LTD. (“Redfern”)  
FOR THE TULSEQUAH CHIEF MINE PROJECT (the “Project”),  
IN NORTHWEST BRITISH COLUMBIA**

**PROJECT APPROVAL CERTIFICATE M02-01**

**Whereas,**

- A. In September 1994, Redfern submitted an application for a mine development certificate for the Tulsequah Chief Mine Project pursuant to the *Mine Development Assessment Act*, SBC 1990, c. 55;
- B. On June 30, 1995, pursuant to s. 93(5) of the Act, the Project was transferred to the environmental assessment process at a step known as “Draft Project Report Specifications”;
- C. After the Executive Director referred the Project Application for decision under s. 30 of the Act in March 1998, the Minister of Environment, Lands and Parks with the concurrence of the Minister of Energy and Mines issued a Project Approval Certificate (M98-02) with conditions to Redfern on March 19, 1998;
- D. The British Columbia Supreme Court quashed Project Approval Certificate M98-02 on June 28, 2000, and on July 29, 2000, directed that the Project Committee for the Project be reconvened to further consider and address the concerns of the Taku River Tlingits and that an amended Recommendations Report be provided to the Minister of Environment, Lands and Parks and the Minister of Energy and Mines as a basis for them to reconsider whether or not to issue a Project Approval Certificate for the Project;
- E. The Project Committee was reconvened on September 19, 2000, and began to further consider and address the concerns of the Taku River Tlingits, and to incorporate data collected since March 1998 regarding wildlife, fisheries and water quality into its considerations;

- F. Before the Project Committee had completed a full consideration of the concerns of the Taku River Tlingits, on January 31, 2002, the British Columbia Court of Appeal directed that the matter should be remitted directly to Ministers;
- G. On May 31, 2002, the Executive Director remitted:
- the Proponent's application for a Project Approval Certificate;
  - the Project Report, including a report entitled *Determining the Impact of the Tulsequah Chief Mine Project on the Traditional Land Use of the Taku River Tlingit First Nation: Addendum on Impacts, December, 1997*, prepared by Lindsay Staples;
  - the recommendations of the Tulsequah Chief Project Committee ("Project Committee") and the reasons for its recommendations, given in a report entitled *Report and Recommendations of the Tulsequah Chief Project Committee with Respect to a Decision on a Project Approval Certificate by the Minister of Environment, Lands and Parks and the Minister of Energy and Mines and Minister Responsible for Northern Development and Fulfilling the Requirements of a Screening Report pursuant to the Canadian Environmental Assessment Act* (the Committee Report);
  - the recommendations of the Taku River Tlingit First Nation and the reasons for its recommendations, given in a report entitled *Tulsequah Chief Mine Re-Opening Project, Report and Recommendations of the Taku River Tlingit First Nation (Project Committee Member), March 6, 1998*;
  - the decision of the Court of Appeal regarding the Tulsequah Chief Mine proposal (*Taku River Tlingit First Nation v. British Columbia*, BCCA, January 31, 2002);
  - the Paul decision (*Paul v. Forest Appeals Commission*, BCCA, June 14, 2001);
  - the Haida decision (*Haida Nation v. British Columbia and Weyerhaeuser*, BCCA, February 2002);
  - Court of Appeal Order (April 22, 2002); and
  - Court clarification of Court of Appeal Order (April 22, 2002), Memorandum from Madam Justice Rowles, Court of Appeal, sent to Deputy Registrar Low, dated April 11, 2002,

to the Minister of Sustainable Resource Management (the "Minister") and to the Minister of Energy and Mines (the "Responsible Minister") to assist in the reconsideration of the question of the issuance of a Project Approval Certificate, bearing in mind the Court of Appeal's reasons for judgment;

- H. On June 20, 2002, the Minister met with representatives of the Taku River Tlingits in Atlin, British Columbia, to discuss their concerns with respect to the Project including the possibility of an acceptable route for an access road to the Tulsequah Chief mine site. The access road is about 160 kilometres in length, and is within the Main Access Corridor (East Route) as shown in Figure 3 of the Committee Report. Following that meeting, the Taku River Tlingits advised the Minister in writing on July 23, 2002, that the Tlingits did not have a proposal for a road alignment, were not interested in working on a proposal for one, and that the Project should be considered in the context of a land use plan for sustainable economic development in the watershed as a whole, or within the context of Treaty negotiations;
- I. On September 14, 2002, the Minister and the Responsible Minister met with representatives of the Taku River Tlingits in Atlin, British Columbia, during which time, their discussions included the potential of working cooperatively on a land use planning initiative and the potential for economic development opportunities for the Tlingits in the region;
- J. On October 9, 2002, in Victoria, British Columbia, the Minister met again with representatives of the Taku River Tlingits regarding a proposal for land use planning and after that meeting the Minister wrote to the Taku River Tlingits on November 13, 2002, offering to meet again to partner a planning protocol;
- K. On November 21, 2002, the Taku River Tlingits wrote to the Minister suggesting a date of December 4, 2002, for a further meeting to discuss planning, and to discuss corresponding and proceeding on a “without prejudice basis”;
- L. Although the Province remains willing to continue discussions regarding a land use plan, no further steps regarding land use planning have taken place;
- M. The Province of British Columbia intends to consult with the Taku River Tlingits, the relevant agencies within the governments of Canada, the Yukon Territorial Government, the United States, and the State of Alaska, during the final design and implementation of the Project;
- N. The Minister and the Responsible Minister have considered all of the documents remitted to them by the Executive Director on May 31, 2002, and itemized in G above;

## **Now Therefore,**

The Minister, with the concurrence of the Responsible Minister, pursuant to section 30(1)(b)(i) of the Act and pursuant to the January 30, 2002 direction of the British Columbia Court of Appeal, hereby issues this Certificate to Redfern subject to the following conditions (the Conditions):

### **A. Conditions**

- 1 Redfern must cause the Project to be designed, located, constructed, operated, dismantled and/or abandoned in accordance with the Conditions of this Certificate and the documents and correspondence listed in Schedule A, and must comply with all of the Conditions of this Certificate to the reasonable satisfaction of the Minister.
- 2 Where, in the reasonable opinion of the Minister, there is a conflict or inconsistency between any of the documents listed in Schedule A and this Certificate, Condition 1 must be interpreted so that the contents of the later dated document will vary, repeal, rescind or supersede, as the case may be, the contents of earlier dated documents listed in Schedule A.
- 3 Where, in the reasonable opinion of the Minister, there is a conflict or inconsistency between any of the documents listed in Schedule A and the Conditions which follow, these Conditions must take precedence over and supersede the contents of the documents listed in Schedule A.
- 4(1) Despite Condition 1 above, if prior to the start of production from the Project, Redfern proposes a change to the design, location, construction, operation, dismantling and/or abandonment of the Project as described in the documents listed in Schedule A, and the change may in the opinion of the Executive Director, have the potential for significant adverse effects, even if the change is not a project modification as defined by the provisions of the Environmental Assessment Reviewable Projects Regulation as amended or replaced, Redfern must then provide the Executive Director with:
  - a. notice of the proposed change; and
  - b. plans, analysis, records and other information necessary for an effective assessment by the Executive Director of the proposed change.
- 4(2) Where the Executive Director, following receipt of and evaluation of information with respect to an item under Condition 4(1), and in consultation with the appropriate authorities, considers that the proposed change does not have the potential to cause significant adverse effects,

- the Executive Director may approve the change to the Project and amend this Certificate.
- 4(3) Where the Executive Director, following receipt of and evaluation of information with respect to an item under Condition 4(1), and in consultation with the appropriate authorities, considers that the proposed change could cause significant adverse effects, the Executive Director may:
- a. establish a review process for an effective assessment of the potential effects of the change and cause it to be conducted;
  - b. on conclusion of the review process, make a recommendation to the Minister and Responsible Minister regarding the proposed change to the Project; and
  - c. on receipt of the recommendation of the Executive Director, the Minister and the Responsible Minister may approve the change to the Project and amend this Certificate.

5 Redfern must:

- 5(1) Finalize a protocol for chronic toxicity testing of the mine effluent discharge for the Project by,
- a. completing and entering into an agreement with the Environmental Quality Section Head, Skeena Region, Ministry of Water, Land and Air Protection, Smithers, incorporating the terms and conditions substantially as outlined in the draft agreement listed in Schedule A to this Certificate, and
  - b. consulting with the following entities under the lead of the Environmental Quality Section Head, Skeena Region, Ministry of Water, Land and Air Protection, Smithers, or designate:
    - i. representatives of the Taku River Tlingits;
    - ii. representatives of the Fisheries and Oceans Canada and Environment Canada, Pacific Region;
    - iii. representatives of the Department of Fish and Game and the Department of Environmental Conservation, State of Alaska;
    - iv. representatives of the Environmental Protection Agency (Region 10), United States;
- 5(2) Complete the protocol referred to in Condition 5 (1) to the satisfaction of the Environmental Quality Section Head, Skeena Region, Ministry of Water, Land and Air Protection, Smithers, prior to the construction of the access road;
- 5(3) Finalize a protocol, to the satisfaction of the Chief Inspector of Mines, Ministry of Energy and Mines, Victoria, for further testing of the alluvial fan of the Shazah Creek valley, to confirm the prediction that the alluvial fan at

the site of the tailings pond impoundment, results from post-glacial sedimentation as opposed to debris torrents, with the resulting degrees of stability, after consulting with the following entities under the lead of the Chief Inspector of Mines, Ministry of Energy and Mines, or designate:

- i. representatives of the Taku River Tlingits;
- ii. representatives of Natural Resources Canada, Pacific Region, and any other federal agency the Chief Inspector determines to be appropriate;
- iii. representatives of the Department of Fish and Game and the Department of Environmental Conservation, State of Alaska; and
- iv. representatives of the Environmental Protection Agency (Region 10), United States;

- 5(4) Implement the terms of the protocol referred to in Condition 5(3) to the satisfaction of the Chief Inspector of Mines, prior to the construction of the access road;
- 5(5) For purposes of this Condition, construction of the access road does not include works and activities undertaken to develop the design of the access road or to undertake further studies and information gathering obligations in respect of this Certificate and any other permits issued by the Province of British Columbia;
- 5(6) Implement the environmental management commitments described in the documents listed in Schedule A, to the reasonable satisfaction of the Director of Regional Operations, Environmental Protection Division and the Director of Regional Operations, Environmental Stewardship Division, Ministry of Water, Land and Air Protection, Victoria;
- 5(7) Implement to the reasonable satisfaction of the Director of Regional Operations, Environmental Protection Division and the Director of Regional Operations, Environmental Stewardship Division, Ministry of Water, Land and Air Protection, Victoria, Redfern's component of the Environmental Follow-up and Monitoring Program, contained in Appendix 11 of the Committee Report, prepared by the Environmental Assessment Office on behalf of the majority of the members of the Project Committee;
- 5(8) Implement to the satisfaction of the Chief, Major Projects Review Unit, Habitat and Enhancement Branch, Fisheries and Oceans Canada, Pacific Region, the Fish and Fish Habitat Mitigation and Compensation plan, outlined in the Environmental Follow-up and Monitoring Program referred to in Appendix 11 of the Committee Report, prepared by the

Environmental Assessment Office on behalf of the majority of the members of the Project Committee;

- 5(9) Ensure that the firearms, hunting, fishing and vehicle use policy listed in Schedule A is actively enforced and complied with by Redfern employees and its contractors and agents;
  - 5(10) Implement the access management plan for the access road, included in Volume IV of the Project Report listed in Schedule A, as further developed by Redfern in a report, Tulsequah Chief Project Access Road Management, listed in Schedule A, to the satisfaction of the Director of Regional Operations, Environmental Stewardship Division, Ministry of Water, Land and Air Protection, Victoria;
  - 5(11) Participate with the Province, First Nations and third parties in a management process, established by the Province, to oversee and monitor the construction, operation, decommissioning and abandonment phases of the Project, including the monitoring and management of the potential for Project related community impacts;
  - 5(12) To the satisfaction of the Regional Director, Northern Region, Ministry of Transportation (MoT), reach an agreement regarding responsibility for the additional costs that would be incurred beyond the existing MoT Atlin highway improvement program, to meet the required specifications identified in the Committee Report for the Project ore transportation on the British Columbia portion of the Atlin highway.
- 6
    - (a) Subject to Conditions 1, 2 and 3, Redfern must fulfil all commitments and proposed mitigation and compensation measures as documented in the Application and the Project Report, including supplementary documents and correspondence listed in Schedule A, to the reasonable satisfaction of the Minister.
    - (b) Redfern's commitments are summarized for ease of reference in Schedule B to this Certificate. Where in the reasonable opinion of the Minister there are conflicts or inconsistencies between Schedule B and any commitments outlined in the documents of Schedule A, the commitments as outlined in Schedule A and this Certificate take priority and the rules of interpretation outlined in Conditions 1, 2 and 3 apply.
  - 7 This Certificate is of no force or effect until validly executed by Redfern and signed by the Minister and the Responsible Minister.

- 8(1) This Certificate does not constitute a permit, licence, approval or any other authority required under any other enactment.
- 8(2) Redfern must comply with all applicable orders, directions and conditions, and obtain and comply with all applicable tenures, licences, regulations, approvals, standards and permits, or other authorities, which may include or result from, but are not necessarily limited to, the following provincial enactments:
- a. *Commercial Transport Act*, RSBC 1996, c. 58;
  - b. *Electrical Safety Act*, RSBC 1996, c. 109;
  - c. *Environmental Assessment Act*, RSBC 1996, c. 119 and the *Environmental Assessment Reviewable Projects Regulation*, B.C. Reg. 275/95;
  - d. *Fire Services Act*, RSBC 1996, c. 144;
  - e. *Fish Protection Act*, RSBC 1997, c. 21;
  - f. *Forest Act*, RSBC 1996, c.157;
  - g. *Forest Land Reserve Act*, RSBC 1996, c.158;
  - h. *Gas Safety Act*, RSBC 1996, c. 169;
  - i. *Health Act*, RSBC 1996, c. 179;
  - j. *Heritage Conservation Act*, RSBC 1996, c. 187;
  - k. *Highway Act*, RSBC 1996, c. 188;
  - l. *Land Act*, RSBC 1996, c. 245;
  - m. *Mines Act*, RSBC 1996, c. 293;
  - n. *Mineral Tenure Act*, RSBC 1996, c. 292;
  - o. *Mining Right of Way Act*, RSBC 1996, c. 294;
  - p. *Motor Vehicle Act*, RSBC 1996, c. 318;
  - q. *Pesticide Control Act*, RSBC 1996, c. 360;
  - r. *Pipeline Act*, RSBC 1996, c. 364;
  - s. *Power Engineers and Boiler and Power Pressure Vessel Safety Act*, RSBC 1996, c. 368;
  - t. *Transport of Dangerous Good Act*, RSBC 1996, c. 458;
  - u. *Utilities Commission Act*, RSBC 1996, c. 473;
  - v. *Waste Management Act*, RSBC 1996, c. 482;
  - w. *Water Act*, RSBC 1996, c. 483;
  - x. *Water Utility Act*, RSBC 1996, c. 485;
  - y. *Wildlife Act*, RSBC 1996, c. 488.
- 9 Redfern must, except in connection with granting security to Project lenders or other financing entities or financing facilities, obtain the written consent of the Minister, such consent not to be unreasonably withheld, prior to disposing, whether legally, beneficially or otherwise, of:
- a. this Certificate, or any right, title or interest or mineral tenure underlying the Project conferred by this Certificate, or
  - b. the Project.

- 10 Redfern must have, in the reasonable opinion of the Minister, substantially started the Project by commencing the construction of the Project within five years of the date of issue of this Certificate.
- 11 Redfern must submit reports to the Environmental Assessment Office, regarding:
  - a. the results of the chronic toxicity testing referred to in Condition 5(1) of this Certificate and the alluvial fan testing referred to in Condition 5(3) of this Certificate, within three months of the completion of the testing and prior to construction of the access road,
  - b. compliance with the Conditions of this Certificate to the date of the completion of the testing referred to in Condition 11(a) of this Certificate, and particulars that appropriately describe the schedule for construction of the Project and start-up of Project operations, and particulars that describe the monitoring requirements during construction, when the report referred to in Condition 11(a) of this Certificate is submitted,
  - c. the results of all monitoring conducted during construction in a consolidated form, within three months of substantially completing construction of the Project, and
  - d. compliance with the Conditions of this Certificate within three months of the end of the first year of mining operations, and annually during the life time of the Project.

## **B. Suspension and Cancellation of Certificate**

This Certificate may be subject to cancellation, suspension in whole or in part, amendment, or the attachment of new Conditions, for any of the following reasons:

- a. construction of the Project is not, in the reasonable opinion of the Minister, substantially started within five years of the date of issue of this Certificate,
- b. the Minister has reasonable and probable grounds to believe that Redfern is in default of:
  - i) an Order of the Supreme Court under section 69(2), 80 or 82 of the Act;
  - ii) an Order of the Minister made under section 68 or 70 of the Act; or
  - iii) one or more requirements or Conditions of this Certificate,
- c. Redfern, or its officers or employees when acting on behalf of Redfern, have been convicted of an offence under the Act, with respect to the Project, or

- d. An Order is made or a resolution is passed, for the winding up, or dissolution of Redfern, or Redfern is in receivership or bankruptcy proceedings, without such Order or resolution being rescinded or stayed.

The Conditions of this Certificate are agreed to by Redfern this

\_\_\_12\_\_\_ day of \_\_\_December\_\_\_, 2002.

*Original signed by*

\_\_\_\_\_  
Terence Chandler  
President and Chief Executive Officer  
Redfern Resources Ltd.

*Original signed by*

\_\_\_\_\_  
Honourable Stan Hagen  
Minister of Sustainable Resource  
Management

\_\_\_ *Original signed by* \_\_\_

Honourable Richard Neufeld  
Ministry of Energy and Mines

Issued this \_\_\_12\_\_\_ day of \_\_\_December\_\_\_, 2002, in Victoria,  
British Columbia