

New Prosperity Gold-Copper Mine Project Federal Review Panel

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PROCEDURES FOR REQUESTING CONFIDENTIALITY

- DRAFT FOR CONSULTATION -

1.0 Introduction

- 1.1. Subject to Section 45 of the *Canadian Environmental Assessment Act, 2012* (CEAA 2012), Article 3.1 of the New Prosperity Review Panel's Terms of Reference indicates that all information obtained by the Panel for the environmental assessment shall be made available to the public.
- 1.2. Section 45 of CEAA 2012 provides a review panel with the power to order that the evidence, documents or other information of a participant be held confidential and not be disclosed if disclosure would cause specific, direct and substantial harm to a witness or would cause specific harm to the environment.
- 1.3. Therefore, the Panel wishes to establish a process for participants to request confidentiality prior to the commencement of the public hearing and for the Panel to consider and decide on such requests.

2.0 Procedure for Requesting Confidentiality

- 2.1. Any participant intending to submit information or documents to the Panel which the participant wishes to keep confidential must make a request in writing to the Panel.
- 2.2. A request for confidentiality should be made as early as possible and prior to or concurrent with the submission of information or documents for which the participant is requesting confidentiality.
- 2.3. The request must clearly identify:
 - which information or documents the participant wishes to keep confidential;
 - from whom the participant wishes to keep the information or documents confidential;
 - the nature of the information or documents the participant wishes to keep confidential;
 - whether the participant making the request is also requesting that the Panel modify the Hearing Procedures to allow for the presentation of evidence at the hearing in such a way as to keep the evidence confidential; and
 - the grounds on which the request is made, including a discussion of what prejudice the participant will suffer should the information or documents not be held confidential.

- 2.4. A request for confidentiality will be placed on the public registry. The Panel will provide all interested parties with the opportunity to comment on a request for confidentiality. The participant making the request will then be afforded the opportunity to respond to comments submitted.
- 2.5. After it has received a request for confidentiality, any comments on that request and any responses to those comments by the participant making the request, the Panel will consider and make a decision on the request. In its decision, the Panel may approve or deny the request or approve it subject to conditions that it deems appropriate to conduct a fair hearing.
- 2.6. Without limiting the Panel's discretion, an approval may be made conditional on one or more participants, including the Proponent, signing a Confidentiality Agreement setting forth the terms on which that party may see or use the confidential information that is before the Panel.
- 2.7. In the event the Panel denies a request for confidentiality, the information which the requesting participant had sought to keep confidential shall be returned to that participant and will be considered to have been withdrawn, unless the participant expressly advises the Panel that it wishes to file the information and waive confidentiality.
- 2.8. In its final report, the Panel will describe how any confidential information has been considered and used in its conclusions and recommendations.