

The logo for the Mining Association of British Columbia (MABC) features the letters 'MABC' in a bold, dark blue, sans-serif font. A small, stylized mountain range icon is integrated into the letter 'A'.

MABC

MINING ASSOCIATION OF BRITISH COLUMBIA

**Canadian Mining
Law & Finance 2010**

Environmental Assessment: Post Red Chris

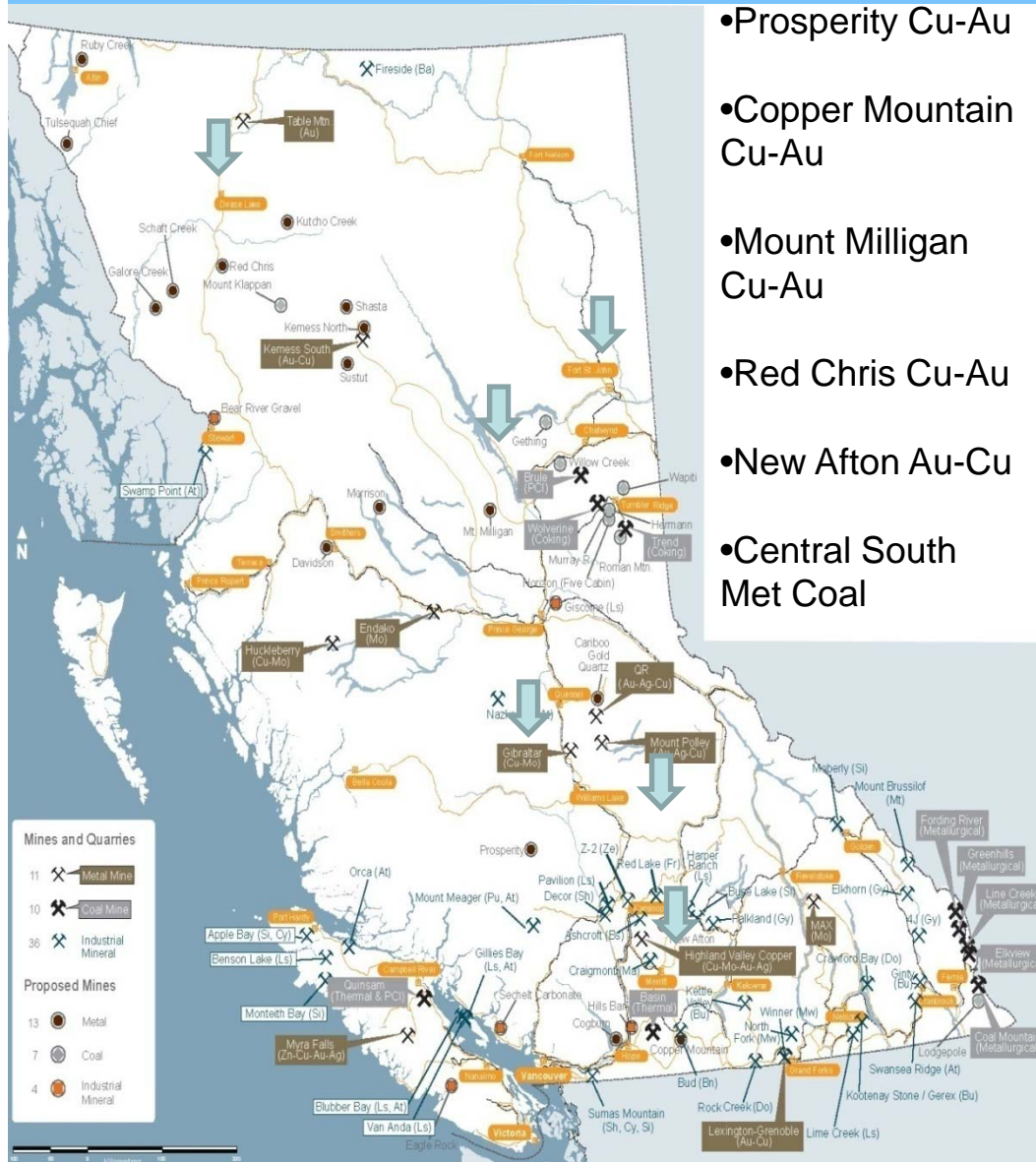
The Mining Association of BC

- Represents companies involved in exploration, production and smelting of minerals, metals, coal and industrial minerals in BC and two smelters.
- Committed to environmental protection
 - MABC environmental policy
- Mining has the best safety record of any heavy industry in BC
- Pre-eminent voice of mining in BC

Mining in BC

- The BC mining industry is a significant financial driver contributing over \$8 billion annually to the provincial GDP.
- 14, 000 direct mining jobs, an additional 35,000 indirect jobs in supporting activities, with total inferred employment in excess of 85,000.
- ~ 20 major mines, over 30 industrial mineral producers and 2 smelters
- Supports a substantial mining supplier business sector
- Vancouver is global centre of mineral exploration and financing expertise

2010: The beginning of a Mining Renaissance in BC



- Prosperity Cu-Au
- Copper Mountain Cu-Au
- Mount Milligan Cu-Au
- Red Chris Cu-Au
- New Afton Au-Cu
- Central South Met Coal

- Two major copper mines to close in next 2 years: closure of Kemess and Huckleberry will reduce copper production annually by 89 million pounds
- 6 major mines are in advanced development
- Over 18 mining projects in earlier stages of environmental assessment
- New mines developing in all regions of BC
- Expanding metallurgical coal industry in northeast and south east
- Highway 37 power line will open up new mining opportunities for the future ushering in a 'mining renaissance' in BC



Evolution of Environmental Assessment

- CEAA came into effect (1992) in the absence of provincial legislation requiring environmental assessment
- Most provinces now have some form of legislated EA
- BC continues to increase the rigour of EA (i.e., through the Clean Energy Act BC is amending the Environmental Assessment Act to require the consideration of cumulative effects (already done in practice))
- Industry is now doing more to obtain social license (i.e., Towards Sustainable Mining)

Industry Concerns with CEAA

- CEAA tied to trigger, not project.
- Project often unrelated to RA's mandate.
 - Strong disincentive to timeliness or to triggering, lack of interest and expertise, no capacity for follow up.
- Lack of centralized coordination & decision making power
- Long delays in front end decisions (i.e., the decision to initiate an EA by an Responsible Authority)
- No legislative timelines as exist with the BC process
- Illogical ordering of process (i.e., MMER Schedule 2)
- Recent federal amendments address some of these concerns

Industry Concerns with CEAA

- CEAA is an Isolated process disconnected from
 - Project planning timeline,
 - Project regulatory life-cycle (operating permits, closure planning, release regulations, etc.).
 - Land use/regional planning,
 - Program and policy assessments.

Federal EA process suffers from systemic delays and lack of coordination, focuses on expensive and frustrating process, and is unable to demonstrate value to the environment or society.

Commissioner for Environment and Sustainable Development

Red Chris: MABC as Intervener

- Given finite resources, if Canadians are to adequately respond to the expanding challenge attendant with the protection of the environment, regulatory processes must promote efficiency.
- Section 4(1) of the CEAA expresses the intention of Parliament to further sustainable development through a process which is efficient.
- An interpretation of the CEAA, such as that advocated by the Mining Watch, which would prohibit a Responsible Authority from exercising discretion in a way that avoids redundancy and promotes efficiency, is not consistent with the intention of Parliament as expressed in section 4(1).

Implications of The Red Chris Decision

- Negative Implications
 - Requires all mines triggering a federal EA to go through a comprehensive study
 - The Red Chris Decision removed scoping as a way to reduce duplication
 - Scoping was a key mechanism for RAs to manager their work load. This decision compounds delays from an already inefficient process
- Positive Implications
 - Reinforces the need to coordinate EA between federal and provincial levels to avoid duplication
 - Permits the Red Chris project to proceed on the basis that the there was not a challenge to the actual EA and that BC conducted a comprehensive study

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Moving Forward: Bill C-9 Budget Implementation Bill

- Red Chris Decision: a Bridge too Far?
- Triggering an EA:
 - Proposes amendments to the *Canadian Environmental Assessment Act* that would address delays in triggering an EA and allow for scoping of comprehensive studies
 - Intended to reduce delays historically created by departments dithering on decisions of whether CEAA is triggered allowing for better alignment with provincial processes
 - Would Give the Canadian Environmental Assessment Agency the ability to trigger an EA for major projects and to conduct the EA thus removing the burden from other departments

Moving Forward: Bill C-9 Budget Implementation Bill

- Scoping and EA:
 - The amendments would give the Minister the authority to focus an assessment on a component of a project, and to delegate that authority to a Responsible Authority.
 - The amendments also simplify the consultation requirements related to scoping of assessments of projects listed on the Comprehensive Study List.

Moving Forward:

Equivalency – A BC Government Proposal

- Amend CEAA to allow for recognition of “equivalent” provincial EA processes:
 - Already exists in BC EA legislation and has been used.
 - Allow for equivalency on “case by case” or “class by class” basis.
- BC proposal would build in conditions to:
 - Ensure federal standards are met (e.g. transparency, participation) and;
 - Would not absolve federal departments from the need to discharge their duties (such as protecting fish habitat and consulting first nations).
- Would incent those provinces without stand-alone, “equivalent” EA legislation to bring such legislation forward.

Conclusion

- The federal government has proposed significant changes to CEAA under Bill C-9 however they do not include 'Equivalency' as proposed by BC.
- Bill C-9 has passed 2nd reading and is in Committee, if passed the proof will be in the implementation
- The federal government indicates a second round of amendments is in the works