



# MANITOBA ECO-NETWORK

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August 11, 2023

Honourable Minister Kevin Klein  
Minister of Environment and Climate  
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## APPEAL OF PROJECT ALTERATION (PUBLIC REGISTRY FILE 1906.00)

### TANTALUM MINING CORPORATION OF CANADA LTD. (TANCO) – BERNIC LAKE MINE TAILINGS MANAGEMENT AREA DAM RAISE AND CONTROL STRUCTURE UPGRADE

The Manitoba Eco-Network is appealing the decision of the Director to designate TANCO's proposed changes to the Bernic Lake Mine Tailings Management Area as "minor" and subsequently approve the proposed alteration. Under section 27 of *The Environment Act*, the Eco-Network is seeking the suspension of the proposed alteration activities and/or Licence No. 973 until the following conditions have been fulfilled.

We request that the Minister:

- a) Require the Department of Environment and Climate to collect additional information from TANCO, including data on dam stability, the design and structure of the tailings facility, and the design and construction of a new spillway by the Department of Environment and Climate. This additional information should be reviewed by the Technical Advisory Committee (TAC) and added to the public registry.
- b) Provide opportunity for meaningful public engagement and independent review of the additional information added to the public registry.
- c) Add requirements for the construction and operation of the tailings ponds, as well as requirements for the monitoring of potential environmental impacts to Licence No. 973.

The grounds for this appeal are:

- 1. The Director's decision to designate the proposed alterations as "minor", and subsequent failure to require the proposed alterations to undergo a full environmental assessment under section 11 of *The Environment Act*, was based on insufficient information.**

The Manitoba Eco-Network finds the information on the public record (Registry File No. 1906.00) about the potential impacts of the proposed alterations insufficient. As a result, we challenge the Director's decision to designate the proposed alteration as "minor" and subsequently approve it. We are particularly concerned about the gaps in information related to the tailings ponds and water management. Even though the safety/stability of a tailings dam may not seem on the surface to be related to the overall environmental effects of the proposed changes, it is in fact very much relevant because of the potential impacts of tailings dam breaches/failures on the surrounding ecosystem and water resources.

The assessment of the potential impacts of raising the dams seems to be predicated on the perceived stability of the dams and the assumption that they will not fail. However, TANCO does not appear to have conducted a stability analysis, which should have informed the alteration design proposal. The properties of the foundation material also appear to be unknown. Both of these information gaps are extremely concerning, considering the [Mount Polley Mine Tailings Dam breach](#), one of the worst environmental disasters in Canada, was caused by a foundation failure. The proposed alteration should not be approved without a complete dam stability analysis, including the assessment of the impact of significant rainfall events on stability.

We are also concerned about the lack of information about the management of water at the project site. Particularly, the measures in place to ensure that water entering the tailings storage facility does not seep into underlying groundwater systems and is not released to surface water bodies. Based on the public information about the tailings dam, there appears to be sides of the tailings facility that are in direct contact with the natural environment (e.g., SW corner, eastern side) and it does not appear that there is a liner system underlying the tailings facility, so contaminated water could potentially seep into the soil/rock and groundwater.

Finally, it is unclear why TANCO has proposed to construct a new spillway. This is not typical of tailings dams, which are normally meant to permanently contain all contaminated material. The Notice of Alteration indicates that water must be treated before being released to the natural environment. The addition of a spillway seems contrary to that approach.

The Minister should require the collection of more information from the proponent, at a minimum, about the following elements:

- a) *Dam stability*, including potential impact of significant rainfall events.
- b) *Design and structure of the tailings facility*. The proponent should provide data about
  - i. The monitoring (and departmental inspection) results associated with the geomembranes. Do the geomembranes successfully prevent water seepage through the existing dams?
  - ii. How will seepage be restricted from the SW corner of the site where potential quarry locations are identified (around the road embankment)?
  - iii. How will the movement of water be prevented from entering the tailings storage facility and seeping into the underlying ground? i.e., is there a geomembrane covering the entire bottom of the tailings facility?
- c) *Design and construction of a new spillway*. The proponent should provide data about:
  - i. How the overall tailings facility limits effluent release, including after significant rainfall events.
  - ii. Findings from on-going monitoring and department inspection reports.

2. **The failure of the Minister/Director to meaningfully include the public in the review of the proposed changes.** The proposed amendment was approved without opportunity for meaningful public engagement since the notice and approval were posted in the registry on

the same day. The designation of the amendment as “minor” instead of requiring a full assessment under Section 11 of *The Environment Act* also significantly limited the opportunities for meaningful public engagement, including the ability to hold a public hearing.

***Recommendation: Suspend the proposed alteration activities and/or Licence No. 973.***

In the view of the Eco-Network, given the significant gaps in publicly available information, TANCO’s proposed amendment should not have been designated by the Director as minor and subsequently approved without a full environmental assessment. At a minimum, the proposed amendment should not have been approved until the potential impacts associated with dam failure and the design and operation of the tailings facility have been meaningfully assessed and a public hearing held. The proposed alteration activities and/or Licence No. 973 should be suspended until information gaps are meaningfully addressed by TANCO, and meaningful public engagement is undertaken by the Department of Environment and Climate.

Under *The Environment Act*, the Department of Environment and Climate is tasked with protecting the quality of the environment and environmental health of present and future generations and providing the opportunity for all citizens to exercise influence over the quality of their living environment. We are confident you will adhere to these principles and suspend the proposed alteration activities to protect the best interests of Manitobans now and in the future.

Sincerely,

Patricia Fitzpatrick, Ph.D.  
Policy Committee Chair

Heather Fast, J.D., LL.M.  
Policy Advocacy Director

***About the Eco-Network:***

Since 1988, Manitoba Eco-Network has promoted positive environmental action by supporting people and groups in our community. The Eco-Network’s programming focuses on policy advocacy, engagement in consultation processes and developing capacity building tools that benefit the environmental non-profit sector and our member groups. We are a public interest environmental organization seeking to promote and facilitate good environmental governance and the protection of Manitoba’s environment for the benefit of current and future generations.