

Committee on Resources

Full Committee

Witness Statement

US House of Representatives
Committee on Resources
May 23, 2000
Statement of:
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President, CEO and Director
REDFERN RESOURCES LTD.

- **Introduction to the Company and the Project**

Redfern Resources Ltd. is a "junior" mineral development company headquartered in Vancouver, British Columbia, Canada. The Company was incorporated in 1979 and is listed on the Toronto Stock Exchange. Redfern does not have any mines in production and consequently has no cash flow from operations. The company was originally formed to explore for and develop mineral properties amenable to economic production. The Company's sole significant asset is the Tulsequah Chief Mine Project which was acquired by the company in 1981 and has been the focus of the Company's development efforts continuously to the present time. Since the start of exploration activities the Company has invested over CAN\$26.5 million in the property.

The Tulsequah Chief Mine is located on the east side of the Tulsequah River, a tributary of the Taku River in northwestern BC. The mine site is 40 miles northeast of Juneau, Alaska and 65 miles south of the town of Atlin, BC.

- **Project Description and History**

The Tulsequah Chief Mine Project proposes to re-open a former producing underground mine which was discovered in 1923 and operated last by Cominco Ltd. in the 1950s. The ore is composed of semi-massive to massive pyrite containing significant quantities of copper, zinc and lead sulphide minerals. These are the principal economic metals along with important amounts of associated gold and silver. The current reserves occur as a continuation of the previously mined deposit to depth, supplemented by several new ore lenses discovered by exploration drilling since 1987. The mine is proposed to be re-developed as a medium sized underground operation processing up to 900,000 metric tonnes (1 million tons) of ore per year. Current reserves are sufficient for 9 years mine life under the proposed production schedule. Because the deposit has not been closed off at depth, it is considered that the mine has a high potential for addition of new reserves as mining proceeds and provides deeper access for drilling.

The project is located in a site currently accessible only by air. The feasibility study determined that the only feasible access to the mine was by construction of a single-lane gravel road for supply and concentrate haul, connecting the mine to the public highway system near Atlin. To minimize impacts on wildlife the road is proposed to be restricted only to mine operations and controlled by a 24 hour manned gate.

A notable feature of the mine re-development will be the incorporation of a full and extensive remediation program to safely store waste from prior mining and eliminate the relatively small amount of acid mine drainage which is currently emanating from the old mine workings. The plan also incorporates extensive measures to prevent re-occurrence of such impacts, permanently.

- **Events leading up to the Permitting process**

Redfern and Cominco commenced joint exploration of the Tulsequah Project in 1987. Successive years saw major programs of surface and underground drilling which continued to expand the scope and understanding of the deposit. Redfern acquired an option to purchase Cominco's interest in the property and exercised it in 1992 to become sole owner of the project. Exploration programs continued through 1994 when the project was moved into feasibility studies and the commencement of the environmental assessment review process.

- **Nature of Canadian Environmental Assessment and Permitting Process**

The Canadian environmental assessment process differs substantially from its US counterparts in its staged approach but not in the ultimate standards or tests for adequacy of environmental protection. The Tulsequah Mine was required to undergo both Canadian federal and provincial environmental assessment review in order to receive a Project Approval Certificate. This review examines the collected baseline information for the identified project components and the preliminary engineering design for structures or mitigation measures for environmental protection. If it is determined that the environmental impacts are sufficiently identified and can be mitigated to a satisfactory degree a Project Approval Certificate is issued. Receipt of a Project Approval Certificate allows a project to then proceed with further detailed engineering and studies to enable applications for the various required operating permits. Standards for various permits are similar in the US and Canada, e.g. for receiving water quality guidelines, flood protection and design stability requirements for tailing impoundment structures etc.

In British Columbia the vast majority of the baseline studies and assessment studies are completed by the proponent Company directly, or through independent engineering or environmental consulting firms contracted by the proponent. Government agency review participation is funded by government.

- **Participation of US in Canadian Environmental Assessment Process**

In September, 1994 Redfern entered the Mine Development Assessment process through an application to re-develop the former producing Tulsequah Chief Mine on the Tulsequah River in northwest British Columbia. A Project Committee was established consisting of representatives of the public, First Nations, key BC provincial ministries, Canadian federal agencies, government of the Yukon Territory, Alaska State government and federal USA agencies. Alaskan agency involvement was coordinated through the Governor's Office, Division of Government Coordination. On the US federal side, representatives of the Department of the Interior, EPA and US Fish and Game also attended Committee meetings. Public meetings were held on the application in February, 1995 in Juneau and Skagway, Alaska; Whitehorse, Yukon; and Atlin, BC. Based on input from this process and comments received from the Project Committee ("PC") a

draft Project Report specification document was assembled. The application was transitioned to the new *BC Environmental Assessment Act* in July, 1995. This Act stipulates extensive consultation and stakeholder involvement for reviewable projects. The simplified sequence of Project Committee (including Alaska and US agency input and involvement) and public input under the Act is as follows:

September, Application

1994

February, Public Review of Application

1995

July - Nov, Derive draft Project Report Specifications from Committee member and public
1995 comments

Nov 26, Public and PC review of draft Project Report Specifications; formulation of Final
1995 - Jan Project Report Specifications
30, 1996

Nov 25, Redfern submits Project Report to PC for screening to determine if Report meets
1996 Specifications

Nov 25, PC completes screening and does not accept Report for review pending resolution of
1996 - Jan deficiencies for environmental studies related to barge access and First Nations
21, 1997 traditional land use studies.

March 14, Redfern submits Application to amend Project by removal of barging as an access
1997 option due to technical and economic infeasibility.

March 15 PC review and acceptance of Amendment application
to June 18,
1997

July 4, Redfern submits revised Project Report for screening by PC for meeting all required
1997 report specifications.

August 1, PC unanimously accepts Project Report for full review.
1997

Sept 8 - Project Report undergoes full public review. Redfern holds advertised public
Nov 6, consultation meetings in Atlin, Whitehorse, Skagway and Juneau and again in Atlin
1997 during this period.

Nov 7, Project report under full review by PC. Immediately prior and during this review 19
1997 - Feb meetings of the full PC and/or sub-committees were held to review resolution of
13, 1998 project issues. An issue tracking table was prepared and circulated during review to
facilitate resolution determination.

Mar 5 - Draft PC recommendations report circulated to PC members for comment,
Mar 13, incorporating resolutions to issues from Committee and sub-committee review
1998 findings.

Mar 19, Certificate granted by BC Government
1998

• Assessment and Decision Process

As outlined above, the environmental review process for the Tulsequah project proceeded over a 3.5 year

period between September 1994 and March 1998. The project application was reviewed publicly and by the project committee. Terms of reference for the information required for the final review were drafted by the Committee, reviewed by the public and agencies and finalized for the proponent's use in preparing the Project Report. US and Alaska State agencies took part in this process. The Project Report was accepted as meeting the requirements for review in August, 1997 by the Project Committee. Public review followed from September 1997 to November 1997. After receipt of public comments, detailed project committee review of the document commenced in November 1997. Most of this review was accomplished through sub-committees established to review key areas of the project and potential for environmental impacts: acid mine drainage and water quality, wildlife (including fish), and access management. Opportunities for US and/or Alaska State representation was made available in all of these areas. Progress was tracked through a table of all identified issues, and the process for their resolution. Final meetings of the subcommittees occurred in mid-February 1998 and comments solicited from all participants on their relevant identified issues. The BC Environmental Assessment Office drafted a Project Committee Recommendations Report which summarized the review process, the identified issues, the process for their resolution and the consolidated findings of the committee representatives. This was circulated to all parties for their comments at the beginning of March of 1998. After receipt of comments the Project Committee Recommendations Report was finalized and presented, as required under the Act, on March 13 to the two Responsible Ministers for a decision. The US representatives' recommendations were to postpone a decision until after a public panel review, whereas the majority of the remaining members recommended approval of the project. The Project Approval Certificate was granted on March 19, 1998.

- **Call for IJC review by Alaska**

In late March 1998, Alaska Governor Tony Knowles referenced the Tulsequah Project in a letter to Secretary of State Madeleine Albright in which he called for additional review of the mine proposal through the auspices of the International Joint Commission. Mr. Knowles' letter made it clear that he perceived there to be inadequate information and/or insufficient review conducted to assess the technical risk of the project on international resources, namely fish and waters. In his letter he raised generic concerns about potential impacts which, in fact, were specifically addressed during the completed environmental review. The letter also revealed a clear unfamiliarity of the staged nature of the Canadian approval process. As mentioned above, Certificate level approval only provides clearance to proceed to the more detailed engineering and technical review required for specific operating permits for the mine and is not, in itself, construction or operating authority.

The sudden and unexpected opposition raised by the Alaska Governor's office was a complete surprise to the Company and the Canadian regulatory agencies. At the time it was assumed that the matter arose as a consequence of the discord between Alaska and British Columbia on the Pacific Salmon treaty and fisheries harvest quotas, rather than as a result of real environmental issues. As later events revealed, this may have been only partially the reason.

- **Bilateral Consultation Process**

In response to the statement of concern, the British Columbia Environmental Assessment Office ("EAO") and federal Canadian agencies, through the auspices of the federal Department of Foreign Affairs, visited Washington, DC on April 16, 1998 to meet with Alaskan and federal US government representatives. The meeting was held to answer American concerns, where possible, and to explain the differences between the American and Alaskan permitting process relative to the Canadian and BC provincial review and certification process. As a result of the meeting a commitment was made to provide a follow-up document

addressing specific issues and providing further clarification for Alaskan and US agencies.

Following further discussions between various US and Alaskan technical personnel and their Canadian federal and provincial review agency counterparts, a document was compiled by the BC EAO to answer the specific technical concerns raised. This response document was forwarded on May 21, 1998 to the US State department, US EPA, and the Governor's Office, State of Alaska. Copies were also sent to Canadian Department of Fisheries and Oceans, Canadian Environmental Assessment Agency (CEAA) and External Affairs in Ottawa.

On August 28 the US State Department sent a letter to Foreign Affairs Canada requesting that Canada agree to an IJC review of the Tulsequah Project. A second round of bilateral government meetings were held in mid-November, and a further series of response documents have been forwarded in December to demonstrate the lack of substantive technical issues. A final meeting to present the response to Alaskan-US concerns over stability of the tailings area was held on December 23, 1998. It is our understanding, from discussions with the participants, that the US technical representatives were largely satisfied with the tailings design and stability assessment responses.

In March, 1999, the Alaska State Legislature held hearings to determine the basis for the Governor's opposition to the Tulsequah project. On review of the testimony, the Senate adopted a resolution in support of a cooperative approach to mine development and calling for the governor to drop his request for a referral of the project to the International Joint Commission. This resolution was passed by the House of Representatives and formally issued on April 16, 1999.

The latest correspondence from the State Department to Foreign Affairs Canada is dated August 1999 and appears to acknowledge progress in resolving US concerns through bi-lateral discussions. However, the same letter also proposes the establishment of a watershed board under the IJC to review "cumulative impacts" related to the proposed mine access road and other potential developments. Additional clarification of Canadian responses was requested and further concerns added to the list.

The Company, its consultants, and the relevant Canadian provincial and federal regulatory agencies assembled a further response document, incorporating all of the additional studies completed so far on the project related to "in-progress" operating permit applications. This was provided to the State Department in April, 2000 - the fifth in a series of responses to US concerns. A meeting is now scheduled for mid-June, at which time it is expected that a resolution to the issue will be achieved to allow the project to proceed without further delays related to any reference to the International Joint Commission.

- **Taku Campaign**

In early 1999 Redfern received documentation from an anonymous source which outlined the formation and strategy of a coalition of environmentalist organizations, including the BC chapter of the Sierra Club, the Sierra Legal Defence Fund and other such groups located in British Columbia. Two entirely US-based organizations were also represented: American Rivers and the Southeast Alaska Conservation Coalition. The document, entitled "*To Save the Taku River - A Coordinated Campaign Strategy Outline*" is undated but from the context of its content and description of meeting dates, appears to have been produced in October of 1998. It describes the intent of the coalition which is to 1) stop the Tulsequah Mine, 2) ensure a development moratorium on the Taku Watershed and 3) instigate and influence a land use policy process compatible with these goals and, ostensibly, those of the local aboriginal peoples - the Taku River Tlingit First Nation.

This document, attached as an Exhibit, discloses the specific strategies and actions proposed to be undertaken to advance these goals:

- Support the call for an International Joint Commission review and lobby US agencies and politicians to keep pressure on the Canadian government towards this initiative.
- Conduct an economic analysis predetermined to establish economic weakness of the project and destabilize the company within the financial community.
- Provide support and financial backing for the Taku River Tlingit First Nation in any actions undertaken to oppose the project, including legal actions
- Use the reference to the International Joint Commission to focus media exposure and bring additional pressure on Canadian legislators and federal government to cave to US demands and give additional leverage to the other initiatives.
- Focus on establishing a land use planning process for the region which establishes a moratorium on all developments until it is completed.
- Achieve a final land use plan which guarantees a protected status for the Taku watershed. To this end a planning committee is proposed to begin work on the framework for longer term goals.
- Form sub-committees of member groups tasked with specific objectives and time lines to advance the strategic goals.
- A funding strategy for the various components of the plan drawing on the resources of each member group supported by grants and funding from a large number of well known foundations, endowment funds and trusts. Most of the funding sources are large US-based funds dedicated to supporting environmentalist initiatives. They are specifically named in the Exhibit.

Several of the groups and named persons in the coalition were instrumental in leading similar campaigns in the past to establish major parks, protected areas and national monuments in British Columbia and elsewhere. The most obvious example is the Tatsenshini campaign which set aside 1.12 million hectares (2.77 million acres) of BC as a UN heritage site principally to extinguish the potential for mineral development in the area at the Windy Craggy project. They have also been involved in the Clayoquot sound campaign and the "Great Bear " rainforest preservation campaign along the entire coastal region of British Columbia.

It should be noted that the British Columbia provincial government has been engaged since 1991 in designating Protected Areas throughout BC with the goal of setting aside 12% of its land mass as representative ecosystem and biogeoclimatic zones. In practice this goal has been exceeded in virtually all of the subregions completed to date. Including existing parks and other interim designated areas, the North Cassiar region, where the Tulsequah project is located, presently has 14% of its area in protected status. A further 4 % is in study designation. The Taku region was not selected during this formal process, primarily due to recognition of its high mineral resource potential and current high use of fisheries and recreation resources. Any consideration of protected status for the Taku area would add even more to the vast amount of lands already placed into non-development categories.

• **Evolution of the Campaign**

Many of the stated steps and tactical plans of the Taku Campaign have come to pass over the past two years even as Redfern has continued to move the project forward, obtain operating permits and seek development financing.

10.1 Aboriginal Legal Challenge of the PAC

In November of 1998, approximately two months after the meeting to form the environmental coalition described in the Taku Campaign document, the Taku River Tlingit First Nation ("TRTFN") broke off discussions with the BC government and Redfern over means to address their concerns about the project. They announced in a press release their intention to evaluate a legal challenge to the PAC.

On February 12, 1999 the TRTFN filed a petition against the BC government in the BC Supreme court under the judicial review procedure act seeking to overturn the decision to issue the PAC. The petition alleged procedural errors and impacts on asserted aboriginal rights and entitlement. The TRTFN leadership proceeded with their petition despite opposition from a substantial portion of their members who issued a press release opposing the action. The petition was responded to by the BC government and by Redfern. A preliminary hearing established dates in June of 1999 for the hearing. In May 1999 the BC government petitioned the court to sever the issues of aboriginal rights and entitlement to a full trial as the matter was not suitable for the affidavit and summary evidence procedure of judicial review. The court agreed. The TRTFN appealed the decision and obtained an adjournment of the judicial review hearing pending appeal decision. The appeal court upheld the court's decision. The appeal judge decision was again appealed and the appeal was rejected in September of 1999. Accordingly, the residual issues of alleged improper process were set for a hearing date in March of 2000. Arguments and evidence were heard in March and a decision was reserved by the judge. That decision is awaited. The TRTFN have not yet filed any action on those issues severed to the trial list.

Although TRTFN have not revealed the funding sources for the legal action it is believed that the funds originate from the sources indicated in the Taku Campaign document.

10.2 Media Exposure

The Taku River and the Tulsequah project were immersed in numerous press articles and stories of the "controversial" mine proposal throughout 1998 and 1999. American Rivers included the Taku River in 14th position in their list of the top 20 endangered rivers in America in April 1998. The river had never occurred on the list in the past and obviously was chosen to generate suitable media interest and coverage. The river did not make American Rivers' 1999 list, possibly because the list was reduced to the top 10. Instead the Taku made an appearance in April 1999 on the BC Outdoor Recreation Council's top ten endangered rivers in BC - in No. 1 spot! The river was included in April 2000 on the same list but is now in 4th spot to make way for new causes.

True to their plan, the coalition was successful in getting media articles and coverage supportive of their protectionist goals in the Seattle Times and New York Times in the spring of 1998 and has also obtained similar stories on CBC radio, the Globe and Mail and National Post newspapers in Canada. Countering this, thankfully, has been very solid exposure of the coalition campaign document, balancing editorial pieces and most importantly: strong criticism of the environmentalist agenda and support for the project from local communities and public.

10.3 Trans Boundary actions

The Campaign document describes the intention to actively lobby US and Canadian legislators and politicians and foment activism in local communities and conservation organizations. Some of this has been evident in the activities of local members of the Taku Wilderness association and members of the Southeast

Alaska Conservation Coalition. Most such activities are not public and are not available for public scrutiny. It is not known to what extent any such activities have been successful in advancing the coalition's agenda.

10.4 Attacks on Redfern's Financial Credibility

In October 1999 the Environmental Mining Council of BC, identified in the Taku Campaign document as the lead organization in this area, issued a study completed at their behest by a mineral economist. The study challenged the assumptions of the financial viability of the Tulsequah project, primarily through comparison of metal price assumptions in the 1995 feasibility study with prevailing metal prices at the time of the study in 1999.

Redfern responded to the study and press release and advised that the project remained viable even at the Environmental Mining Council study's metal price assumptions, albeit at reduced return on investment. The response also noted that metal prices were at historic lows. In fact, metal prices for several of the metals of interest, particularly zinc and copper have recovered significantly since that time. The Redfern response was supported by other industry leaders who noted the cyclical variability of mineral commodities pricing and the irrelevance of such issues to environmental impact assessment.

- **Impacts on the Company and the local Communities**

As is typical of junior mining companies with limited assets and no production cashflow, Redfern's share price reflects the market's appreciation of the quality of its mineral assets, the expectancy that the deposit will achieve production and the anticipated timeline for such development. During the exploration period of the early 1990's Redfern's share price reflected the volatility of such speculation and the results of individual drilling campaigns. It averaged in the \$2-4 range during this period. As the project moved into the protracted period of feasibility and permitting the share price fell off to below \$2 particularly as the duration of the environmental assessment was extended. At the time of receipt of the Project Approval Certificate in March 1998, Redfern's share price rose over the \$2 level. The Company was in negotiation with an offshore group of investors to secure project financing when the IJC reference call was made by Governor Knowles. Uncertainty over the outcome of this issue caused the offshore interests to suspend discussions. As the issue moved into the protracted time frame for resolution (two full years so far), investment interest dried up and the company's share price slowly fell. This situation has been exacerbated by a coincident decline in metal prices through 1998 and 1999 to historic lows, precipitating a decline in equity values across the entire mineral industry. Redfern shares are currently trading below \$0.50. The Company's development activities are constrained by the reduced ability to raise further working capital through equity offerings and the cooling of investor interest due to the expectation that the environmental coalition will seek every procedural and appeal opportunity to delay development and to lobby government for special restrictions on future operations.

The local community of Atlin, with a population of about 500, has been dismayed by the well-funded external coalition's actions to control their economic prospects and future land use. The community formed a local group in 1997 called CARES (Concerned Atlin Residents for Economic Sustainability) to explicitly support the proposed mine re-development. Over 70% of the voting age adults in the community joined this organization. The town of Atlin was formed around the gold placer mining activity at the turn of the century and most of its economic base still relies on continuing placer mining operations near the town. This base has been hard hit with the decline of the gold price in the past two years and the community is suffering high unemployment. The situation is similar in the adjoining Yukon territory so regional relief is not available. Simply put, the town and the region need the economic boost that would be provided by the

Tulsequah project. The activities of the environmental organizations to delay or prohibit the mine development have no consideration of the needs of the local communities.

The Taku River Tlingit First Nation has about 400 members, about 120 of which live in Atlin.. The Tlingit economy primarily revolves around federal government funding, part of which supports their costs to continue negotiations to settle their land claims. The Tlingit community remains divided on the issue of the mine development with about half in favour of the employment and economic opportunities and half seeking to delay the project until land claims are settled or simply opposed to mine development on principle. Redfern maintains a good relationship with most of the community and has advanced a draft economic benefits agreement which awaits a response and final execution by the First Nation.

- **Current Status**

Redfern retains sufficient working capital to continue to advance applications for operating permits but insufficient to move the development into construction and development. The Company is seeking a joint venture partner to fund the majority of the capital development. The Company is resolute in its intention to realize the potential of the property for its shareholders and the local communities.

Thank you for the opportunity to provide this information to the Committee.

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